

## **§32 SUPPLEMENTARY USE REGULATIONS** *Revised 10-05-11*

Each of the following uses is permitted in each district to the extent indicated for that use and district, subject to all provisions of the applicable district, except as specifically provided for in this section. Every application for the use of property subject to conditions set forth herein shall be filed in accordance with the provisions of these regulations, and shall be subject to approval by any commission, board or agency stipulated in this section.

### **32-1 Supportive Housing**

Two-family or multi-family dwelling units on a minimum of twice the required lot area of the underlying residential zoning district may be used as Supportive Housing living quarters, requiring annual certification by P&Z staff that the definition of Supportive Housing is met. Supportive Housing is subject to a Special Permit and Site Plan approval in accordance with §43, herein, subject to the following conditions:

#### **32-1.1 Standards**

All applicable standards of the underlying zoning district must apply except that:

- 32-1.1.1 Building coverage shall not exceed twenty percent (20%) of the lot area and the total coverage shall not exceed fifty-percent (50%) of the area of the lot.
- 32-1.1.2 On site parking shall be provided at a minimum of one parking space per dwelling unit.
- 32-1.1.3 The Front Landscaping Area standard of §35-2.2 may be reduced to twenty-five (25) feet by the P&Z Commission.
- 32-1.1.4 Public water and sewer must be available for the property, and all units must be connected to the sewer and water lines.

#### **32-1.2 Density**

- 32-1.2.1 A Supportive Housing building shall include not more than six (6) dwelling units and shall not contain more than ten (10) bedrooms. No unit shall have more than two bedrooms. There shall be one (1) building per lot. The maximum building size shall be 5,000 square feet of floor area, inclusive of garage area.
- 32-1.2.2 Unit sizes: The gross interior floor area per dwelling unit shall not exceed:
  - (a) 600 square feet for an efficiency unit;
  - (b) 850 square feet for a 1-bedroom unit; and
  - (c) 1,200 square feet for a 2-bedroom unit.

For purposes of these regulations, libraries, dens, studios, studies, lofts and other similar spaces shall be deemed to be bedrooms by the Commission. A single recreation room, a storage area and a utility room located in a cellar or basement without a bathroom will not be considered a bedroom. The gross interior floor area of a unit shall exclude garage parking spaces, common storage areas, common stairs, common halls, common foyers and other similar spaces used in common.

**32-1.3 Affordable Housing Requirement:**

100% of housing units on the lot shall be Affordable for persons whose annual income does not exceed fifty percent (50%) of the state median income level, adjusted for family size. In conjunction with an application for approval of a Special Permit for a Supportive Housing Development, the applicant shall submit an "Affordability Plan", in accordance with §8-30g which shall describe how the regulations regarding affordability will be administered. The plan must also include a means of offering a "right of first refusal" to the Town of Westport to acquire the property. The right of first refusal must be placed on the land records for the property.

**32-1.4 Architectural Design**

The architectural design, scale and mass of buildings and other structures used for multiple-family dwelling units, including the exterior building material, color, roof-line and building elevations shall be residential in character so as to harmonize and be compatible with the neighborhood, and to protect property values in the neighborhood and to preserve and improve the appearance and beauty of the community.

- 32-1.4.1 Pitched roof buildings shall be required.
- 32-1.4.2 Roof-top mechanical equipment shall be prohibited; except for energy conservation systems such as solar energy panels.
- 32-1.4.3 Dwelling unit facades should be designed to avoid a barracks or dormitory appearance. Staggered or off-set unit facades and/or varied unit façade materials shall be utilized.
- 32-1.4.4 Buildings should be designed and located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible.

**32-1.5 Landscaping, Screening and Buffer Areas**

Landscaping must be provided in accordance with §35 of the regulations (also see §32-1.1.3).

- 32-1.5.1 **Refuse Areas**  
Refuse collection areas shall be provided, screened, supplied with covered receptacles and conveniently located to serve all dwelling units.
- 32-1.5.2 **Mail Boxes**  
Mail boxes shall be provided, covered from the elements and conveniently located to serve all dwelling units.
- 32-1.5.3 **Buffer Strip**  
For any multi-family Single Use Development, the minimum planted buffer strip required under §35, herein, may be extended along any side or rear lot line located between the dwelling units and any adjoining non-residential use or vacant lot.

### **32-1.6 Utilities**

- 32-1.6.1 All utilities and conduits within the site for a multi-family Single Use Development shall be underground.
- 32-1.6.2 No Zoning Certificate of Compliance shall be issued for any dwelling or dwelling unit unless and until such dwelling or unit has been connected to a public water supply, suitable power supply and a public sanitary sewer line.
- 32-1.6.3 All storm drainage facilities and public sanitary sewers shall be designed and constructed in accordance with Town standards, subject to the approval of the Town Engineer.
- 32-1.6.4 Any development application for Supportive Housing use shall require the applicant investigate the existing capacity of the sewer collection and treatment system to accommodate any increase in sanitary sewer flow created.

### **32-1.7 Separating Distance and CAP**

No Supportive Housing developed under these regulations may be located within 1,500 feet of other Supporting Housing developed under these regulations. There shall be no more than five (5) Supportive Housing developments approved under this regulation within the Town of Westport.

## **32-2 Senior Housing - Municipal**

### **32-2.1 Purpose**

The purpose of this section of the regulations is to promote the public health, safety and general welfare of the community by providing decent, safe and sanitary housing units for Senior persons at reasonable rents in order to assure especially adapted housing facilities for Senior persons in the public interest by allowing multiple-family housing for Senior persons within the Town of Westport.

The rights, duties, privileges and obligations of these regulations shall be limited to the Westport Housing Authority, only, in order to provide "Housing for Elderly Persons" under §8-112a, et seq. of the Connecticut General Statutes. Such housing shall be permitted as a municipal use subject to Site Plan and Special Permit approval in accordance with §43, and to the following standards, conditions and safeguards.

### **32-2.2 Permitted Uses**

Construction of residential dwelling units for Seniors under this Section shall be permitted for detached dwellings, semi-detached dwellings, and attached dwellings such as garden apartments and townhouses, but not for hotels, motels, rooming, boarding and lodging houses or tourist homes. Each dwelling unit shall have one (1) or two (2) bedrooms. No dwelling unit shall have more than two bedrooms. Libraries, dens, studios or other similar rooms in any dwelling unit shall be construed to be bedrooms.

### **32-2.3 Accessory Uses**

Necessary accessory buildings, structures and uses including, but not limited to, facilities for maintenance, administration, off-street parking, storage facilities, and those facilities necessary to the operation of utility systems serving the development may be permitted. Accessory buildings and structures, other than garages, shall not exceed 300 square feet of gross floor area, shall not exceed the allowable height, shall not be used or occupied as a rooming unit or a dwelling unit, and shall not include any use or activity conducted for gain or profit.

**32-2.4 Location**

Any development site shall be so situated that necessary facilities such as, but not limited to, medical, shopping, and public transit are easily accessible to the occupants of such developments. All buildings shall be connected to public sewer and public water. All sites shall have direct access to an improved public road.

**32-2.5 Lot Area and Shape (See Definition)**

Each development site shall have a minimum lot area of one (1) acre (43,560 square feet) and shall be of such shape that a rectangle (150' x 150') will fit on the lot.

**32-2.6 Density**

The maximum number of dwelling units shall not exceed twenty-five (25) bedrooms per acre.

**32-2.7 Setbacks**

Setbacks for buildings and other structures shall be determined by the physical site characteristics and surrounding buildings, structures and uses and shall include a minimum thirty-foot (30') front landscape area.

**32-2.8 Height**

No building or structure shall exceed a height of either 20 feet to the top of a flat roof or 25 feet to the mid-point of a pitched roof and 30 feet to the peak; except for an addition that matches the existing pitched, gable, or gambrel roof line of an existing building on that lot.

**32-2.9 Coverage (See Definition)**

The building coverage shall not exceed twenty-five percent (25%) and the total coverage shall not exceed sixty-five percent (65%) of the site area.

**32-2.10 Distance Between Buildings**

Each building, principal or accessory, shall be at least twenty feet (20') distant from any other building on the lot, as measured in a straight line between the nearest points of any two buildings.

**32-2.11 Usable Open Space**

Suitably equipped and adequately maintained recreation and open space shall be provided. At least 150 square feet of usable open space shall be provided on the site for each dwelling unit. Recreation areas shall be well designed to provide security and privacy.

**32-2.12 Signs**

Signs shall be permitted in accordance with §33 of the Supplementary Regulations.

### **32-2.13 Parking and Loading**

Off-street parking and loading shall be provided in accordance with §34 of the Supplementary Regulations and the following additional standards:

- 32-2.13.1 Walks, ramps and driveways shall be safely designed. Handrails and ample places for rest shall be provided. Gradients of walks shall not exceed five percent (5%).
- 32-2.13.2 All parking areas and active recreation areas, shall not be less than ten (10) feet from any building or thirty (30) feet from any front lot line and ten (10) feet from any rear and side lot lines. Open parking areas, including accessways and driveways, shall be paved with hard-top surfaces upon a suitable subgrade in accordance with Town road standards. The pavement area shall be adequately drained so as to prevent excessive accumulations of water, snow and ice.
- 32-2.13.3 There shall be provided a safe and convenient system of drives, service access roads and walks, designed with such items as handrails and ramps. Such facilities shall be adequately lighted and said lighting shall not be directed onto adjacent streets or properties.

### **32-2.14 Landscaping, Screening and Buffer Areas**

Landscaping, screening and buffer areas shall be provided in accordance with §35 of the Supplementary Regulations.

### **32-2.15 Refuse Areas**

Refuse collection areas shall be established and conveniently located for all units. The collection areas shall be properly screened and supplied with covered receptacles.

## **32-3 Hospitals and Other Medical Institutions**

Public and private hospitals and other medical institutions licensed by the State of Connecticut, such as homes for the aged, rest homes, nursing homes, and multi-care institutions are permitted in any Residence District subject to Special Permit and Site Plan approval in accordance with §43, and the following conditions:

### **32-3.1 Certificate**

A valid "Certificate of Need" as issued by the State of Connecticut shall be submitted with the application.

### **32-3.2 Streets**

The site shall have direct access to an improved public arterial street as defined in Town Plan.

### **32-3.3 Utilities**

All buildings on the site shall be connected to public sanitary sewers and public water.

### **32-3.4 Lot Area**

The site shall have a minimum area of not less than twice the minimum required lot area in the applicable zoning district.

### **32-3.5 Density**

No site shall exceed a density of 20 beds per acre and no site or building shall accommodate more than 120 beds including staff and resident accommodations and not more than one (1) dwelling unit for a resident manager.

- 32-3.5.1 A project of 40 beds or more shall only be permitted either on a site with at least 100 feet of frontage on a public street within a commercial zone or within an existing building (or buildings) containing 20,000 square feet or more of gross interior floor space.
- 32-3.5.2 An existing hospital or other medical institution may replace its building or buildings as long as:
  - (a) the buildings have been occupied by the existing hospital for a minimum of ten years, and
  - (b) the replacement building [s] complies with all applicable zoning regulations, and
  - (c) the replacement floor area does not cause an increase in excess of 15% of the existing gross interior floor area of the buildings used for hospital purposes on the site as of September 1, 1999.

### **32-3.6 Bedrooms**

No bedrooms shall exceed 250 square feet of floor area per bed and there shall be no kitchen facilities in any bedroom.

### **32-3.7 Usable Open Space**

At least 150 square feet of usable open space shall be provided on the site for each bedroom.

## **32-4 Storage of Commercial and Recreational Vehicles**

Except as otherwise provided for in these regulations, not more than one (1) registered commercial vehicle or vehicle used for commercial purposes, not more than two (2) registered recreational vehicles, campers or boats, and not more than one (1) unregistered motor vehicle, shall be garaged, stored or parked consistently on a residential premises. Such a commercial vehicle shall not exceed one-ton rated capacity if a pickup truck or van, or one and one-half yard capacity dump truck. The registered commercial vehicle or vehicle used for commercial purposes shall be owned or used by the resident of the premises for use in employment. Recreational campers and boats and unregistered vehicles shall be owned by the resident or owner of the premises on which they are stored.

Such commercial, recreational and unregistered vehicles shall not be located in the front yard area and shall be garaged or suitably screened from view on all sides during all seasons of the year. There shall be no mechanized construction equipment stored on residential premises.

## **32-5 Junkyards**

Junkyards or the storage of scrap or other waste material, other than a municipal solid waste disposal site, shall be prohibited; except that the storage of scrap salvage or other materials, the storage of not more than one unregistered motor vehicles, or the repair of automobiles or other vehicles owned by the resident or owner of the premises may be permitted outdoors on a residential lot provided that such outdoor storage or repair area shall be no greater than 200 square feet in size, shall not be located in the front yard area, and shall be screened from view on

all sides during all seasons of the year. Such accessory use shall not be permitted for commercial purposes.

### **32-6 Outdoor Storage and Display**

Outdoor storage and display is permitted as an accessory use in all Non-Residential Districts except DDD and HDD, subject to Site Plan approval in accordance with §43, herein, and the following conditions:

- 32-6.1** All outdoor storage and display areas shall: not be visible from any adjoining Residence District, not obstruct or impair vehicular or pedestrian traffic, not reduce or impinge upon required off-street parking or loading spaces, be maintained in a clean and attractive manner, and cannot be located in the front landscape area. Tables and chairs associated with Outdoor Eating Areas shall not be considered as outdoor storage and display but shall be subject §5 and §32-20 Outdoor Eating Areas.
- 32-6.2** Truck trailer storage shall be restricted to a designated loading area. No such trailer shall be stored for more than seven (7) days unless authorized by the Administrative Review Committee pursuant to §43-14, herein. No such permit shall be valid for more than ninety (90) days. Retail sales are not permitted from a stored trailer. A trailer shall be a vehicle mounted on an axle with wheels for transport on the public highways.

### **32-7 Prohibited Uses**

The following uses and activities are expressly prohibited in any zoning district within the Town of Westport.

- 32-7.1** Any use which is toxic, noxious, offensive, or objectionable by reason of the emission of smoke, dust, gas, odor, or other form of air pollution; or by reason of the deposit, discharge, or dispersal of liquid, solid or toxic waste, in any form, in a manner or amount so as to cause damage to the soil or any stream or to adversely affect the surrounding area; or by reasons of the creation of any periodic and/or abnormal noise, vibration, electro-magnetic or other disturbance perceptible beyond the boundaries of the lot on which it is situated; or by reason of illumination by artificial light or light reflected beyond the limits of the lot on, or from which, such light or light reflection, emanates; or which involves any dangerous fire, explosive, radioactive or other hazard, or which can cause injury, annoyance, or disturbance to any of the surrounding properties, or to their owners and occupants.
- 32-7.2** Tourist cabins, trailers, or mobile home camps or parks or any use of trailers, mobile homes, campers, or boats for human habitation , except as provided in §16, herein.
- 32-7.3** The use of any building, structure or land for the purpose of gambling houses; gambling with tables, slot machines, video machines or other devices whether mechanical or electronic; gambling at cards, dice or pool; casino gambling; lottery and numbers games, except as authorized by the State of Connecticut or any other State; teletrack betting; off-track betting; race track betting (dog, horse, auto or other); jai alai frontons; or other similar games of chance, betting activities and/or gambling uses; provided that nothing herein shall prohibit activities such as bingo, bazaars, raffles or charitable "casino nights" by not-for-profit and tax exempt organizations.

**32-7.4** Satellite dishes and/or dish type antennas shall be prohibited on or attached to the exterior of any building or structure except for disc type antennas less than two feet in diameter.

**32-7.5** The use of any multiple family dwelling unit for any Home Occupation, Level 1, or Home Occupation, Level 2 shall be prohibited.

### **32-8 Excavation and Filling of Land**

Within the Town of Westport the excavation of land, stockpiling of earth products on a site and/or filling of land with earth products such as, but not limited to: topsoil, loam, sand, gravel, clay, stone minerals or fuel is permitted in any Zoning District subject to Site Plan approval in accordance with §32-8.6 or Special Permit and Site Plan approval in accordance with §43.

#### **32-8.1 Exemptions**

The following activities in §32-8.1 shall be exempt from requiring an Excavation & Fill permit but shall conform to the standards listed in §32-8.3.

- 32-8.1.1 Excavations or filling of earth products in connection with and clearly essential to the construction or alteration of a building or structure on the same premises no more than 25 feet from said structure and complies with the slope requirements in §32-8.3.2, provided a zoning permit has been issued for such construction or alteration, and such work is specified in said permit.
- 32-8.1.2 Construction, grading or changing of contours in accordance with plans for the same that have been approved by the P&Z Commission, covering the roads, lots and other improvements in an approved subdivision, Site Plan or Special Permit application. Any excavation or filling beyond the limits shown in the approved plans of the P&Z Commission's action shall require a permit as outlined in this Section.
- 32-8.1.3 The construction of a swimming pool or underground shelter for which a zoning permit has been issued, or a wall, driveway or other special appurtenances no more than 25 feet from such improvements to the use of land in question or the placement of utility lines or services. Incidental filling, grading or excavating in connection with maintenance, repairs, or minor improvements to property or customary landscaping and temporary collecting, stockpiling and reuse of topsoil shall be exempt from permit requirements.
- 32-8.1.4 If excavation or regrading under any of the above listed improvements in this section which circumvents the protection of property sought by the provisions of this regulation or so as to change the groundwater table, to excavate a basement or cellar built below the ground water table thereby increasing surface runoff by pumping water to the surface or alter natural drainage basins or flow the Zoning Enforcement Officer or the P&Z Commission shall take appropriate enforcement action.

#### **32-8.2 Excessive Fill Regulation**

The purpose of this Section is to limit the total amount of excavation or fill allowed on any lot, to restrict the development of those parcels of land where an excessive amount of excavation or fill would be necessary to make the land developable and to prevent adverse drainage impacts on surrounding properties resulting there from:

32-8.2.1 Excessive Excavation or Fill

- (a) In any Residential Zoning District, the maximum amount of excavation or fill permitted on any lot of 10,000 square feet or more in area shall not exceed an amount greater than that required to raise or lower said parcel ten (10) feet above or below the existing natural grades over an area equal to 50% of the allowable Total Coverage in the respective zone.
- (b) In any Non Residential Zoning District, the maximum amount of excavation or fill material permitted on any lot of 10,000 square feet or more in area shall not exceed an amount greater than that required to raise or lower said parcel ten (10) feet above or below the existing natural grades over an area equal to 50% of the allowable Building Coverage in the respective zone.
- (c) For lots with fewer than 10,000 square feet in a Residential or Non Residential Zone, the maximum amount of excavation or fill shall not exceed 500 cubic yards and shall not exceed ten (10) feet above or below the existing natural grade in any location.

32-8.2.2 Formula

The following formula shall be used to compute the maximum allowable excavation or fill amount: Lot Area (square feet) X 50% of Total Coverage in Residential Zoning District or 50% of Building Coverage in Non Residential Zoning District X ten (10) feet divided by 27 cubic feet/1 cubic yard = maximum allowable excavation or fill in cubic yards.

32-8.2.3 Maximum Fill or Excavation Quantity

No portion of any lot shall be filled or excavated to a height or depth greater than ten (10) feet above or below the existing natural grade. On any lot the total allowable quantity of fill permitted under §32-8.2, above, shall exclude any fill that is required by the WWHD under §32-8.2.4 below. Fill height shall not exceed a ratio of 0.20 relative to the distance from the property line, excavation or fill of driveways in front and side setbacks shall be exempt from this requirement.

32-8.2.4 Limitation of Fill for Septic Systems

In instances where fill material is expressly required by Westport-Weston Health District for a septic system, both primary and reserve areas, the total area to be filled for septic purposes shall not be raised more than 4.0 feet above the existing natural grades at the time of application for either a Zoning Permit, Site Plan, Special Permit or Subdivision Application; except that the total amount of fill shall not exceed 1,185 cubic yards, based on an area of 100 feet X 80 feet = 8,000 square feet X 4 feet = 32,000 divided by 27 = 1,185 cubic yards.

32-8.2.5 Maximum Fill Height For Septic Systems

When fill is required for a septic system, no portion of any lot shall be filled to a height greater than four (4) feet above the existing natural grade. The amount of fill permitted for a septic system shall be allowed exclusive of any fill allowed under §32-8.2, above.

**32-8.2.6 Total Maximum Excavation or Fill**

The combined total maximum allowable quantity of excavation and fill on any lot shall not exceed the sum of the maximum quantities of excavation and fill allowed under §32-8.2 and 32-8.2.5, above. This shall be based upon the total excavation and fill, not the net change.

**32-8.2.7 Natural Existing Grades**

The natural existing grades shall be either the contour of elevations shall be based upon an up to date topography survey verified in the field with even numbered two (2) foot contour as a minimum, as may be amended from time to time, or the contour elevations and/or spot elevations as shown on an existing conditions survey map prepared by a Registered Land Surveyor. Said contours or spot elevations shall be based on North American Vertical Datum (NAVD) of 1988 datum.

**32-8.3 Standards**

The proposed excavation or filling project, if approved, shall conform to the following standards:

- 32-8.3.1 The premises shall be excavated and graded in conformity with the proposed contour plans as approved.
- 32-8.3.2 Manmade earth slopes shall not exceed fourteen (14) degrees to the horizontal (4 horizontal to 1.0 vertical) within 25 feet of any lot line or within the required setback of any lot, whichever is less and slopes shall not exceed twenty (20) degrees to the horizontal (2.75 horizontal to 1 vertical) over remainder of the property to be excavated. Man-made rock slopes shall not exceed 1 horizontal to 12 vertical and shall be subject to the approval of the Town Engineer. There shall not be any grading or slope changes within five (5) feet of any lot line.
- 32-8.3.3 No equipment other than for digging, drilling, leveling and bringing in or carting away excavating material or fill shall be maintained on the premises.
- 32-8.3.4 No processing of earth of any kind shall be conducted on the site except for material that is excavated directly from the project site for use on the project site.
- 32-8.3.5 There shall be no sharp declivities, pits or depressions.
- 32-8.3.6 Proper surface drainage shall be provided and groundwater shall not be polluted.
- 32-8.3.7 After excavation or filling, the premises shall be cleared of debris and temporary structures within the time provided in the permit.
- 32-8.3.8 Fill material shall not include organic (for example tree stumps, leaves, brush or other materials that decompose, etc.) or petroleum based products or materials.
- 32-8.3.9 Erosion Control measures shall be required as provided for in §37.

**32-8.4 Restoration Plan**

As part of the Site Plan, the applicant shall submit a Restoration Plan showing final grading and landscaping and whatever other information is necessary to indicate how the site will be restored to permit future development of the site. Restoration shall include:

- 32-8.4.1 A layer of arable soil of reasonable depth to be spread over the premises upon the completion of the excavation or filling operation in accordance with approved contour lines.

- 32-8.4.2 A suitable ground cover planted and grown to an erosion resistant condition.

### **32-8.5 Considerations Affecting Approval**

In reviewing all plans, consideration shall be given to protecting the public health, safety and welfare, the general objectives of Site Plan Review and the following specific considerations:

- 32-8.5.1 The following shall be considered: location, intensity and type of operation contemplated in each application. Conditions may be imposed for safety of operations and to prevent damage to adjacent lands or improvements, including the specifications of appropriate performance standards.
- 32-8.5.2 Filling with and/or removing earth products shall be restricted to areas which have access to roads of sufficient width and capacity to carry maximum projected loads. When alternate routes are available, truck traffic shall avoid routes which require passage through residential areas.
- 32-8.5.3 Locations shall be avoided where it is anticipated that the activity may cause slides, sinking, collapse of supporting soil, erosion by wind or water, water pollution, undue alterations of the water table of adjoining properties or any other deleterious effects.
- 32-8.5.4 Activities shall also be reviewed with respect to the condition of the site after completion of the operation and the relationship of that site to existing and permitted development in the general area in which the site is located. The applicant's proposed Restoration Plan for the site must demonstrate the extent to which the site can, and reliably will, be restored to condition, and will facilitate the development of the general area. For this purpose, the Commission shall exercise judgement as warranted by the circumstances of each case to impose conditions including but not limited to:
- (a) Grading and landscaping requirements.
  - (b) Limitation on the months of the year, days of the week, and hours of the day during which any work may be performed on the premises.
  - (c) Limitations as to the size and type of machinery used on the premises.
  - (d) Place and manner of disposal of excavated materials, and/or source and variety of fill materials to be brought onto the premises.
  - (e) Requirements for the control of dust, noise, fumes and lighting.
  - (f) A bond shall be posted in accordance with §43-12 and 43-13, herein.
  - (g) A site monitor may be required. If required, it shall be paid for at the applicant's expense.

### **32-8.6 Administrative Excavation/Fill Permit**

In certain cases where the area to be excavated, stockpiled or filled does not exceed either five thousand (5,000) square feet or one thousand (1,000) cubic yards, whichever is less, and such material does not exceed a height of 10 feet above the existing natural grade at the time of application, an administrative excavation/fill permit for such excavation or filling may be issued by and upon the unanimous decision of the full Administrative Review Committee authorized under §43-14.2, subject to all considerations and conditions of approval as set forth in this Section with the following exceptions:

- 32-8.6.1 No administrative permits may be issued for a period of longer than six (6) months. An Administrative Permit may be renewed for only one additional six month period.
- 32-8.6.2 A bond may be required in accordance with §43-12 and §43-13 herein.
- 32-8.6.3 The application shall be accompanied by 3 copies of a plot plan showing all buildings and structures, all wetlands, watercourses and waterbodies, the location, size and nature of the disturbed area, existing and proposed contours, grades or elevations, square feet of area, and cubic yards of material.
- 32-8.6.4 Notice for all applications must be completed consistent with §44-1.2.
- 32-8.6.5 The Administrative Review Committee shall grant or deny an administrative permit within sixty five (65) days of the date of receipt of a complete and proper application.

### **32-9 Refuse Disposal (Dumpsters and Compactors)**

The use of commercial dumpsters, as opposed to typical garbage cans, for refuse collection may be permitted outdoors on a lot in any zoning district provided that such commercial dumpster shall not be located within any required setback area in a Residential Zone nor within any required Front Landscaping Area or Buffer Strip in any other Zone, shall be covered with a lid or roof structure, and shall be suitably screened from view on all sides during all seasons of the year. (Also see §34-11.14, Design and Access to Dumpster Area)

### **32-10 Home Caterers**

A single-family dwelling on at least a 1/2 acre lot may be permitted a second kitchen to be used solely for home catering or professional cooking by the resident owner of the business in a Residence District subject to a Special Permit and Site Plan approval in accordance with §43, herein and the following conditions:

#### **32-10.1 Qualification**

The second kitchen shall be located wholly within the principal building and shall have a license from the Westport-Weston Health District. The owner of the property must consent to the application for a second kitchen and acknowledge the owner's obligation to remove the second kitchen within 30 days after the expiration or revocation of a Special Permit as required under §32-10.7.

#### **32-10.2 Occupancy**

The principal dwelling shall be occupied by the principal resident owner of the business during the duration of the Special Permit.

#### **32-10.3 Operation**

The home catering use shall permit the preparation of food on, and the delivery of food from the premises. The hours of operation shall be limited to the period from 8:00 A.M. to 8:00 P.M. unless otherwise approved by the Commission. No more than one (1) full-time or part-time person shall be permitted in addition to the resident owner of the business conducting the home catering use. No food shall be sold to or consumed by customers on the premises.

#### **32-10.4 Floor Area**

The home catering use including the additional kitchen and related work area shall not exceed 600 square feet of floor area.

### **32-10.5 Signs and Parking**

Advertising signs shall be permitted on the premises in accordance with §33-5.1.1, herein. Off-street parking shall be provided in accordance with §34, herein. One commercial vehicle may be permitted on the lot subject to the provisions of §32-4, herein.

### **32-10.6 Certification**

Prior to the issuance of a Zoning Permit, a certificate in the form of an affidavit to verify that the principal resident owner of the business is in residence and that the home catering use is licensed by the WWHD shall be presented to the P&Z Commission. Thereafter, the principal resident owner of the business shall submit a notarized affidavit to the ZEO by January 31st of each year as a requirement for the continuation of the Special Permit.

### **32-10.7 Expiration**

Within 30 days after the expiration or revocation of a Special Permit for a home catering use, the then owner of the property shall physically remove from the dwelling, at his/her expense, the kitchen used for home catering.

## **32-11 Group Home for Seniors**

A single-family dwelling on at least a one (1) acre lot may be used as a group home for a limited number of unrelated Senior persons as living quarters in a Residence District subject to a Special Permit and Site Plan approval in accordance with §43, herein, and the following conditions:

### **32-11.1 Qualification**

No single-family dwelling shall qualify under these regulations unless each such single-family dwelling and all additions thereto, except such structures as may be required for the Fire Safety Code, shall have been on the Assessor's list as of Oct. 1st at least 5 years before the date of application.

### **32-11.2 Occupancy**

A group Senior home shall include a resident occupied dwelling unit with guest rooms for not more than six (6) Senior persons wholly within a single-family dwelling that is occupied by the principal owner or owned by a non-profit corporation. No such group home shall be occupied by more than eight (8) persons.

### **32-11.3 Signs and Parking**

Advertising signs shall be permitted on the premises in accordance with §33, herein. Off-street parking shall be provided in accordance with §34, herein.

### **32-11.4 Certification**

Prior to the issuance of a Zoning Permit, a certification in the form of an affidavit to verify that the principal owner or non-profit corporation is in residence, that the occupants of the group home are of age and that the number of occupants is permissible shall be presented to the P&Z Commission. Thereafter, the principal owner or non-profit corporation shall submit such notarized affidavit to the ZEO by Jan. 31st of each year as a requirement for the continuance of the Special Permit.

### **32-11.5 CAP**

No more than five (5) such group homes for Seniors shall be permitted within the Town of Westport.

## **32-12 Inclusionary Two-family and Multi-Family Dwellings**

Two-family and multi-family dwelling units are permitted in any GBD, RPOD, RORD, BPD, RBD, BCD, BCD/H and DDD #2 Non-Residential Zoning District subject to a Special Permit and Site Plan Approval in accordance with §43, herein, all applicable provisions of the underlying zoning district, and the following additional standards and safeguards. (See §39A for Lots Split Residential and Non-Residential Zoning District)

The purpose of this section is to increase the diversity of housing choices and to provide additional below market rate housing within Westport. In order to implement this purpose, at least twenty percent (20%) of the floor area of all residential units shall be deed restricted as affordable and at least twenty-percent (20%) of all proposed units shall be deed restricted as affordable in accordance with CT General Statutes §8-30g.

### **32-12.1 Lot Area and Shape.**

- 32-12.1.1 No minimum lot area or shape. Any lot using this regulation must provide frontage on an arterial street that is equal to at least fifteen percent (15%) of the perimeter of the lot.
- 32-12.1.2 Any lot created by subdivision or lot merger not in existence at the time this regulation was created must have a Regularity Factor of at least 0.55.
- 32-12.1.3 Primary access to the development must be from a non-residential portion of lot.

### **32-12.2 Density**

- 32-12.2.1 Maximum - The maximum allowable density shall not exceed 20 bedrooms per gross acre. An additional maximum density of 6 bedrooms per gross acre is permitted for affordable units that are exempt from this calculation. The maximum number of units per acre shall not exceed eighteen (18) inclusive of affordable units.
- 32-12.2.2 Bedrooms - For the purpose of these regulations, libraries, dens, studios, studies, lofts and other similar spaces shall be deemed to be bedrooms by the Commission. A single recreation room, a storage area and a utility room located in a cellar or basement without a bathroom will not be considered a bedroom.

### **32-12.3 Setbacks**

No principal or accessory building or structure shall extend closer than:

- (a) twenty (20) feet from any front lot line.  
Side and rear setbacks are governed by the underlying district.

### **32-12.4 Height**

In order to retain the historic streetscape in the BPD and BCD/H zones, the height is restricted to that which is permitted in the underlying non-residential zoning district.

- 32-12.4.1 For buildings within the GBD, RPOD, RORD, RBD, BCD and DDD #2 zoning districts, of which at least one-third (1/3) of the floor area is residential, a height of three (3) stories and thirty-five (35) feet is allowed.

- 32-12.4.2 For a building in which less than one-third (1/3) of the floor area is residential use, the height is restricted to that which is permitted in the underlying zone.

### **32-12.5 Coverage**

A building coverage bonus in the non-residential zone shall be allowed. The bonus may not exceed five percent (5%) of the non-residentially zoned portion of the lot in excess of that which is allowed in the underlying non-residential zone, except for the BCD and BCD/H zoning districts.

- 32-12.5.1 The P&Z Commission may exempt an additional minimal amount of coverage associated with open porches, decks, balconies and other similar open structural projections from building coverage; provided that such open structural projection will benefit public access, safety or convenience or will further the intent to preserve and/or enhance the historic character and appearance of the area, and at the discretion of the Commission at the time of Special Permit approval on sites that include at least 20% affordable housing.

- 32-12.5.2 The total coverage shall not exceed seventy percent (70%) of the area of lot.

- 32-12.5.3 In order to encourage underground parking and a reduction in coverage, a density bonus of two (2) units, a residential FAR bonus of 0.05, and an exemption for floor area within a cellar or basement will be permitted, if at least one (1) underground space is provided per unit and if the total coverage is reduced to 65%.

### **32-12.6 Building Spacing**

Groups of buildings on a single lot shall be so arranged that the minimum horizontal distance between the nearest walls or corners of any principal and/or accessory detached buildings shall not be less than ten (10) feet.

### **32-12.7 Floor Area**

- 32-12.7.1 Unit Size: The total interior floor area of a unit shall exclude garage parking spaces, common storage area, common stairs, common halls, common foyers and other similar spaces used in common. The average unit size shall not exceed 1,250 square feet.

- 32-12.7.2 Floor Area Ratio (FAR)

- 32-12.7.2.1 No lot which contains buildings or structures which consists of two-family or multi-family dwellings, shall exceed an FAR of 0.5, except in the BCD zone. Any incremental increase in floor area above the maximum allowable FAR in the underlying zone shall be used for dwelling(s) units only. Floor area used for parking and loading shall be excluded from the FAR. Floor area used for affordable housing units shall be exempt from the FAR calculation not to exceed an additional 0.25 FAR.

- 32-12.7.2 At least 40% of the floor area of the property shall be non-residential use.

- 32-12.7.3 In order to encourage underground parking and a reduction in coverage, a density bonus of two (2) units, a residential FAR bonus of 0.05, and an exemption for floor area within a cellar or basement will be permitted, if at least one (1) underground space is provided per unit and if the total coverage is reduced to 65%.

### **32-12.8 Architectural Design**

The architectural design, scale and mass of buildings and other structures including, among other elements, the exterior building material, color, roofline, and building elevations shall be made compatible with the historic structures located on the property and on any adjacent lot, if they are listed on the most recent Westport Historic Resource Inventory. The design should reflect both the characteristic scale and building traditions of those historic structures so as to preserve and improve the appearance and beauty of the community. New construction or reconstruction shall adhere to the design purposes of this district.

Architectural design requirements for the underlying zones apply and in addition dwelling unit facades shall be designed to avoid a barracks or dormitory appearance. Staggered or off-set unit facades and/or varied unit facade materials shall be utilized.

### **32-12.9 Public Waterfront Access**

Public Waterfront Access (see Definitions) shall be provided on all sites adjacent to the Saugatuck River.

### **32-12.10 Signs**

Signs shall be permitted in accordance with §33 of the Supplementary Regulations, as determined by underlying zoning district.

### **32-12.11 Parking**

Off-street parking and loading shall be provided in accordance with §34 of the Supplementary Regulations; however such parking and loading shall be located on the lot and to the rear of the front leading edge of any building facing the street. Parking shall be required as provided in §34-5, except that the P&Z Commission may reduce the required multifamily parking standards by 0.5 spaces per unit. Tandem parking may be considered subject to the discretion of the P&Z Commission.

- 32-12.11.1 In order to encourage underground parking and a reduction in coverage, a density bonus of two (2) units, a residential FAR bonus of 0.05, and an exemption for floor area within a cellar or basement will be permitted, if at least one (1) underground space is provided per unit and if the total coverage is reduced to 65%.

### **32-12.12 Landscaping, Screening and Buffer Areas**

Landscaping, screening and buffer areas shall be provided in accordance with §35 of the Supplementary Regulations. Sidewalks shall be provided in accordance with §35-2.2.4 of the Supplementary Regulations.

- 32-12.12.1 Exterior lighting shall be provided and maintained by the property owner at all access points to streets, parking areas, building entrances and elsewhere for the safety of vehicular and pedestrian traffic. All exterior lighting shall be low-level, except for required street lights. The glare from light sources shall be shielded from roads and abutting properties. Lighting must be provide in accordance with §44-5.5 of the Regulations.
- 32-12.12.2 **Refuse Areas:** Refuse collection areas shall be provided, screened, supplied with covered receptacles and conveniently located to serve all dwelling units.
- 32-12.12.3 **Mail boxes:** Mail boxes shall be provided, covered from the elements and conveniently located to serve all dwelling units.

### **32-12.13 Utilities**

- 32-12.13.1 All utilities and conduits shall be underground.
- 32-12.13.2 No Zoning Certificate of Compliance shall be issued for any dwelling or dwelling unit unless and until such dwelling or unit has been connected to a public water supply, suitable power supply and a public sanitary sewer line.
- 32-12.13.3 All storm drainage facilities and public sanitary sewers shall be designed and constructed in accordance with Town Standards, subject to the approval of the Town Engineer. Storm drainage facilities shall be provided and shall be designed to achieve a zero impact run-off based on a minimum 25-year storm flow. Street culverts and bridges shall be designed for a 100-year storm flow.

### **32-12.14 Change of Use**

No dwelling unit approved under these provisions shall thereafter be changed to any non-residential use.

### **32-12.15 Affordability Requirement and Plan**

- 32-12.15.1 In conjunction with residential units proposed as part of this regulation, at least twenty percent (20%) of the floor area of all residential units shall be deed restricted as affordable and at least twenty-percent (20%) of all proposed units shall be deed restricted as affordable in accordance with CT General Statutes §8-30g. An affordability plan must be submitted at the time of application in accordance with same. Fractional units at 0.5 and above shall be rounded up. In any case at least one (1) unit must be affordable. These units must be affordable to households whose income does not exceed 80% of the state or area median income, whichever is lower. The state and area median income figures are from the United States Census and are periodically updated by the U.S. Department of Housing and Urban Development (HUD).
- 32-12.15.2 Affordable housing units cannot be clustered, but shall be reasonably dispersed throughout the development and shall contain, on average, the same number of bedrooms and the same quality of construction as the other units in the development. Amenities for the market rate and below market rate units shall be comparable. No affordable unit shall be smaller than 75% of a market rate unit containing the same number of bedrooms.

### **32-12.16 Traffic Analysis**

A Traffic Analysis in accordance with §44-2.5 shall be required.

## **32-13 Group Home for Youth**

A single-family dwelling or Town-owned building on at least a one-acre lot may be used as a group home for a limited number of unrelated youth, as living quarters in a Residence District, subject to a Special Permit and Site Plan approval in accordance with §43, herein, and the following conditions:

### **32-13.1 Qualifications**

No single-family dwelling or Town-owned building shall qualify under these regulations unless each such building and all additions thereto, except such structural additions as may be required for the Fire Safety Code shall have been on the Assessor's list as of October 1st at least 5 years before the date of application.

### **32-13.2 Occupancy**

A group home for youth shall include a resident occupied dwelling unit with guest rooms for not more than eight (8) youth wholly either within a single-family dwelling that is occupied by the principal owner or non-profit corporation or is located within a Town-owned building. Priority shall be given to children of Westport residents whose age does not exceed 19 years. No such group home shall be occupied by more than 8 youth and 3 staff for a total of not more than 11 persons.

### **32-13.3 Supervision**

The youth in said home shall be supervised, at all times, by on-premise staff persons of at least 21 years of age according to the following standards:

- (a) at least one (1) staff person for every four (4) youth or fewer; and
- (b) at least one (1) staff person at night.

### **32-13.4 Signs and Parking**

Advertising signs shall be permitted on the premises in accordance with §33, herein. Off-street parking shall be provided in accordance with §34 herein.

### **32-13.5 Certification**

- 32-13.5.1 Any such home for the youth shall obtain a license for a group home from Conn. Dept. of Children and Youth Services (DCYS) within one year of the granting of a Special Permit or said Special Permit shall become null and void.
- 32-13.5.2 The P&Z Commission may authorize the issuance of a Temporary Zoning Permit for 6 months, renewable for one additional 6 month period, pending receipt of the license from Conn. DCYS.
- 32-13.5.3 Prior to the issuance of a final Zoning Permit, a certification in the form of an affidavit and appropriate supporting documents shall be submitted within one year to the Zoning Enforcement Office to verify:
  - (a) that the principal owner of the single-family dwelling or the non-profit corporation is in residence or that a valid lease is in effect for a Town-owned building;
  - (b) that the occupants of the group home are of age;
  - (c) that the number of occupants is permissible; and
  - (d) that the group home has a valid and current license from the Conn. DCYS. Thereafter, the principal owner, non-profit corporation or lessee shall submit such notarized affidavit to the Zoning Enforcement Office by January 31st of each year as a requirement for the continuance of the Special Permit.

### **32-13.6 CAP & Spacing**

No more than three (3) group homes for the youth shall be permitted within the Town of Westport. No such group home shall be located within a radius of 1,000 feet from another group home for the youth.

### **32A-13 Residential Facility for School-Based Education Program**

A single-family dwelling or Town-owned building may be used as a Residential Facility for School-Based Education Program, on a minimum one-half (1/2) acre lot, for a limited number of unrelated youth, as living quarters in a Residence District, subject to a Special Permit and Site Plan approval in accordance with §43, herein, and the following conditions:

#### **32A-13.1 Qualifications**

Any single-family dwelling or Town-owned building shall qualify under these regulations provided that each such building shall have been on the Assessor's List as of Oct. 1<sup>st</sup> at least 5 years before the date of application. Additions to such buildings are permitted that meet all regulations applicable to the underlying zoning district, subject to review by the Architectural Review Board and Special Permit and Site Plan approval from the P&Z Commission.

#### **32A-13.2 Occupancy**

A Residential Facility for School Based Education Program shall include a resident occupied dwelling unit with guest rooms for not more than eight (8) high school-aged youth who will attend the local public high school, wholly within a single-family dwelling that is owned by a non-profit corporation or leased from the Town by a non-profit corporation. Said non-profit corporation shall be chartered by the State of Connecticut for educational purposes and shall be affiliated with a national non-profit corporation chartered for educational purposes which has been in existence for at least 5 years before the date of application. The total number of resident staff and their immediate family shall not exceed four (4). If one of the family members is of high school age that family member then is counted as one of the eight (8) permitted high school-aged students.

#### **32A-13.3 Supervision**

The youth in said residential facility shall be supervised by one or more resident staff persons of at least 21 years of age, who are employed by the non-profit corporation.

#### **32A-13.4 Signs and Parking**

Advertising signs shall be permitted on the premises in accordance with §33, herein. Off-street parking shall be provided in accordance with §34 herein.

#### **32A-13.5 Certification**

32A-13.5.1 Prior to the issuance of a Zoning Permit, a certification in the form of an affidavit and appropriate supporting documents shall be submitted to verify:

- (a) that the principal owner of the single-family dwelling or lessee of a Town owned building is the non-profit corporation;
- (b) that the youth are of high school age and are attending the local public high school; and
- (c) that the total number of occupants is permissible.

32A-13.5.2 Annual certification is required in accordance with §32A-13.5.1. The non-profit corporation that submitted the Special Permit application shall submit such notarized affidavit to the Zoning Enforcement Officer by January 31st of each year as a requirement for the continuance of the Special Permit.

### **32A-13.6 Cap and Spacing**

No more than two (2) residential facilities for school based education programs shall be permitted within the Town of Westport. No such facility shall be located within a radius of 1,000 feet from another Residential Facility for a School Based Education Programs or from a Group Home for Youth.

## **32-14 Conversion Of School Buildings To Housing**

### **32-14.1 Purpose**

It is the purpose of this section to address the need of the Town of Westport for additional multi-family housing. This Regulation is intended to promote the health, safety and general welfare of the community by authorizing the conversion of existing large municipal school buildings with at least 25,000 square feet of gross interior floor space into decent, safe and sanitary owner-occupied multi-family, dwelling units in a cooperative and/or condominium form of ownership, only.

### **32-14.2 Permitted Uses**

Conversion of existing municipal school buildings to cooperative or condominium, owner-occupied, multi-family dwelling units shall be permitted under this Section, subject to a Special Permit and Site Plan approval in accordance with §43 and §44 of these Regulations. Hotels, motels, rooming, boarding and lodging houses or tourist homes shall not be permitted. There shall be no new principal buildings constructed on the site. The existing building may be expanded only to allow necessary ramps, staircases, elevator towers and similar service facilities.

### **32-14.3 Accessory Uses**

Necessary accessory buildings, structures and uses including, but not limited to, facilities for recreation, maintenance, administration, off-street parking, storage and utilities serving the development may be permitted.

32-14.3.1 Detached Garages: No garages, carports or other parking buildings shall be permitted.

### **32-14.4 Location & CAP**

Any development site shall be so situated that public transit is directly available. All buildings shall be connected to public sanitary sewer and public water and shall be within 1,500 feet of an existing sewer. All sites shall have direct frontage upon and access to an improved public street. No more than three (3) existing municipal school buildings shall be permitted to be converted to housing within the Town of Westport.

### **32-14.5 Density**

- a) The maximum number of dwelling units in the conversion project shall not exceed one (1) dwelling unit for each 800 square feet of gross interior floor area within the existing school building. The minimum required lot area shall not be less than 3,000 square feet of land for each dwelling unit. The overall project density shall not be greater than eight (8) dwelling units per gross acre, including both the project lot area and any contiguous town-owned recreational and/or open space lands associated with the existing school site.

- b) The types of units shall be limited to efficiency, one-bedroom and two-bedroom dwelling units, only.
- c) The gross interior floor area per dwelling unit shall not exceed: (1) five hundred (500) square feet for an efficiency; (2) eight hundred (800) square feet for a one-bedroom unit; and (3) one thousand (1,000) square feet for a two-bedroom unit; unless such parts of the existing building are otherwise arranged or designed to be reasonably, conveniently and safely transformed into slightly larger units.
- d) Not less than 40% of the total number of units in the building shall be efficiency and one-bedroom units.
- e) The gross interior floor area of a unit, shall exclude garage parking spaces, common storage areas, common stairs, common halls, common foyers and other similar spaces used in common.
- f) Libraries, dens, studios or similar rooms in any dwelling unit shall be counted as bedrooms.

#### **32-14.6 Setbacks**

No principal building, structure or use and no accessory building, structure or use shall extend closer than 30 feet from any street line and 25 feet from any side or rear property line; except in a Res. AAA Zone where all setbacks shall be at least 50 feet.

#### **32-14.7 Height**

The height of an existing school building or structure shall not be increased in the course of conversion except for necessary mechanical units, elevator shafts, skylights, solar panels and other similar features which shall not extend more than 4 feet above the height of the existing building. No accessory building or structure shall exceed a height of either 12 feet to the top of a flat roof or 16 feet to the peak.

#### **32-14.8 Coverage (See Definitions)**

The building coverage shall not exceed twenty-five (25) percent and the total coverage shall not exceed sixty-five (65) percent of the lot area.

#### **32-14.9 Usable Open Space**

Suitably equipped and adequately maintained recreation and open space shall be provided. At least 150 square feet of usable open space shall be provided on the site for each dwelling unit. Recreation areas shall be designed to provide privacy and security.

#### **32-14.10 Signs**

Signs shall be permitted in accordance with §33 of the Supplementary Regulations.

#### **32-14.11 Parking and Loading**

Off-street parking and loading shall be provided in accordance with §34 of the Supplementary Regulations and the following additional standards:

- 32-14.11.1 A safe and convenient system of drives, service access roads and walks shall be provided and shall be designed with amenities such as handrails and ramps. Such facilities shall be adequately lighted from low to medium height poles and said lighting shall be down-directed. Gradients of walks shall not exceed five (5) percent.
- 32-14.11.2 All parking areas, including aisles and driveways, shall be paved with hard-top surfaces upon a suitable subgrade. The pavement areas shall be adequately drained so as to prevent excessive accumulations of water, snow and ice.

#### **32-14.12 Landscaping, Screening and Buffer Areas**

Landscaping shall be provided in accordance with. §35 of the Supplementary Regulations.

- 32-14.12.1 Refuse collection areas shall be provided, screened, supplied with covered receptacles, and conveniently located to serve all dwelling units.
- 32-14.12.2 Mail boxes shall be provided, covered from the elements and conveniently located to serve all dwelling units.

#### **32-14.13 Utilities**

- 32-14.13.1 All utilities and conduits within the lot shall be underground.
- 32-14.13.2 No Zoning Certificate of Compliance shall be issued for any dwelling or dwelling unit unless and until such dwelling or unit has been connected to a public water supply, suitable power supply and a public sanitary sewer line.
- 32-14.13.3 All storm drainage facilities and public sanitary sewers shall be designed and constructed in accordance with Town Standards, subject to the approval of the Town Engineer.

#### **32-14.14 Architectural Design**

- 32-14.14.1 The building fenestration, facade and roof line shall be preserved.
- 32-14.14.2 All buildings shall be compatible with the existing architecture.
- 32-14.14.3 The historic and/or architectural integrity of the existing building shall be maintained.

### **32-15 Managed Residential Community**

#### **32-15.1 Purpose**

The purpose of this section is to allow a Managed Residential Community which provides services including assistance with activities of daily living in order to enable older persons to maintain a maximum level of independence, to reflect the continuing concern of the Commission for the special needs of older persons and to provide for their safety, health and general welfare.

#### **32-15.2 Permitted Uses**

Construction and operation of a Managed Residential Community, including the provision of Private Residential Units all as defined herein and in §5.2.

### **32-15.3 Accessory Uses**

Accessory buildings, structures and uses necessary to the operation of a Managed Residential Community include maintenance, utility and recreational facilities. Accessory buildings and structures shall not exceed 300 square feet of floor area, shall not exceed one story or 16 feet in height and shall not be used or occupied as a rooming unit or a dwelling unit. The accessory buildings shall be in keeping with the architectural style of the main building and shall not detract from neighboring residential properties.

### **32-15.4 Location**

A Managed Residential Community lot shall be located and have frontage on an arterial street as classified by the P&Z Commission in accordance with the Town Plan of Development. All buildings shall be connected to public sanitary sewer and public water.

These facilities shall not be located in Special Flood Hazard Areas A and V as shown on the FIRMs for Westport.

### **32-15.5 Lot Area, Shape and Frontage**

Each lot shall have a minimum lot area, shall be of such shape that a minimum square will fit in the lot, and shall have a minimum frontage on at least one arterial street, as follows:

| <b>ZONE</b>                         | <b>LOT AREA</b> | <b>LOT SHAPE</b> | <b>LOT FRONTAGE</b>        |
|-------------------------------------|-----------------|------------------|----------------------------|
| AAA, AA, A, PRD                     | 6 Acres Minimum | 300' x 300'      | 200' on an arterial street |
| BCD, GBD, HDD, HSD, RBD, RORD, RPOD | 2 Acres Minimum |                  | 200' on an arterial street |

Split Zones: For lots located in both commercial and residential zones, lot area, shape, and frontage shall be governed by the standards of the zone in which the greater portion of the lot lies.

### **32-15.6 Affordable Units**

For every two affordable units built, one additional unit will be allowed up to a maximum of 5% of the total units otherwise allowed by these regulations. These units shall be permanently allocated to meet or be lower than the affordability levels for which persons and families pay 30% or less of their annual income where such income is less than or equal to the area median income for the municipality in which such housing is located, as determined by the U.S. Department of Housing and Urban Development. Rent shall include all utilities except phone and cable television. Therefore, if 10 affordable units are proposed, 5 extra units may be constructed. These are called bonus units.

### **32-15.7 Density**

32-15.7.1 The maximum allowable density shall not exceed 15 residential units per gross acre in any permitted zoning district (see §32-15.7.2). Units shall not contain more than two (2) bedrooms. For the purposes of these regulations, libraries, dens, studios, studies, lofts and other similar spaces within private residential units shall be deemed to be bedrooms.

32-15.7.2 The total number of residential units shall not exceed 90 on a site of 8 acres or less, 105 units on a site 8 acres up to 9 acres, and 115 units on a site over 9 acres on any Managed Residential Community site, plus bonus units.

- 32-15.7.3 The total aggregate number of residential units permitted on all Managed Residential Community sites shall not exceed 300 units including bonus units, under these Managed Residential Community Regulations.

### **32-15.8 Setbacks**

- 32-15.8.1 Minimum setbacks from lot lines for principal and accessory buildings or structures shall conform to the following:

| <b>ZONE</b>  | <b>FRONT</b> | <b>SIDE</b> | <b>REAR</b> |
|--|--------------|-------------|-------------|
| AAA, AA, A, PRD and any properties abutting a residential zone   | 100'         | 75'         | 75'         |
| BCD, GBD, HDD, HSD, RBD, RORD, RPOD (except a structure must be setback 75' from any residential property line). | 30'          | 30'         | 50'         |

Split zones – for lots located in both commercial and residential zones, setbacks in the residential portion shall adhere to the standards for residential zones in §32-15.8.2.(a)

- 32-15.8.2 Minimum setbacks from lot lines for parking spaces and loading areas shall conform to the following:

| <b>ZONE</b>  | <b>FRONT</b> | <b>SIDE</b> | <b>REAR</b> |
|--|--------------|-------------|-------------|
| AAA, AA, A, PRD , and any properties abutting a residential zone | 50'          | 35'         | 35'         |
| BCD, GBD, HDD, HSD, RBD, RORD, RPOD                              | 30'          | 25'         | 25'         |

Split zones - for lots in both commercial and residential zones, setbacks in the residential portion shall adhere to the standards for residential zones in §32-15.8.2

- 32-15.8.3 No setbacks shall be required from Zoning District Boundary Lines crossing the interior of the lot.

### **32-15.9 Height**

No building or other structure shall exceed a height of 2 1/2 stories or 30 feet, whichever is less.

### **32-15.10 FAR**

No building or structure shall exceed a Floor Area Ratio (FAR) of 0.25 on the area of the lot. 0.35 FAR shall be allowed in BCD, GBD, HDD, HSD, RBD, RORD, and RPOD.

### **32-15.11 Coverage**

The building coverage shall not exceed 15 % and the total coverage shall not exceed 25% in a residential zone.

The building coverage shall not exceed 20% and the total coverage shall not exceed 30% in a commercial zone.

### **32-15.12 Unit Sizes**

The gross interior floor area of private residential units in a Managed Residential Community shall not be less than 350 square feet. Units cannot exceed 2 bedrooms.

Non-related persons may, but cannot be required, to share units.

### **32-15.13 Useable Open Space**

A minimum area of useable open space of 450 sq ft shall be provided on the site for each private residential unit, as follows:

- 32-15.13.1 The land so set aside shall be graded, screened and landscaped, shall be of a passive recreation nature suited to the needs of the residents, and may include open interior courtyards. Such recreation areas shall be designed to provide security and privacy and to prevent the emission of objectionable noise and light onto abutting properties.

Useable Open Space must not have slope greater than 5% and shall be free of wetlands, ledge and rock outcroppings. Natural geologic features and specimen trees shall be preserved. Paved paths and site lighting for the benefit of residents shall be provided.

### **32-15.14 Signs**

Signs shall be permitted in accordance with §33 of the Supplementary Regulations.

### **32-15.15 Parking and Loading**

Off-street parking and loading shall be provided in accordance with §34 of the Supplementary Regulations except that:

1. Only one (1) off-street loading space shall be required for any Managed Residential Community facility. Said loading space shall be conveniently located near a service entrance to the facility; and
2. Handicapped parking and a drop-off area for residents and guests may be provided in the front of the building.

### **32-15.16 Landscaping, Screening and Buffer Areas**

Landscaping, screening and buffer area shall be provided in accordance with §35 of the Supplementary Regulations.

- 32-15.16.1 Refuse collection areas shall be provided, suitably screened, supplied with covered receptacles and conveniently located to serve the facility.
- 32-15.16.2 Ground mounted mechanical units or equipment shall not be located within any setback area or buffer area and shall be suitably screened.
- 32-15.16.3 Exterior site lighting shall be adequate for public safety and resident security. Pole lights shall be limited to a height of 16 feet with down-directed fixtures. Spotlights on the building are prohibited.

### **32-15.17 Architectural Design**

The architectural design, including the exterior building material, color, roof line and building elevations shall be residential in character and compatible in scale with the neighborhood so as to protect property values and preserve and improve the appearance and beauty of the community.

- 32-15.17.1 No wall of any building shall exceed 50 feet in length in an unbroken plane without an off-set of at least five (5) feet;
- 32-15.17.2 Rooftop mechanical equipment shall be adequately screened except for energy conservation systems such as solar energy panels;

- 32-15.17.3 All buildings shall have pitched roofs;
- 32-15.17.4 If more than one building is constructed on a single lot, they shall be so arranged that the minimum horizontal distance between the nearest walls or corners of any principal and/or accessory detached buildings shall not be less than one-half the sum of the height of such adjacent buildings except for connecting corridor links of at least 20 feet in length and at least 8 feet in width.

### **32-15.18 Utilities**

- 32-15.18.1 All utilities and conduits within the lot shall be underground.
- 32-15.18.2 All buildings on the lot shall be connected to public sanitary sewers and served by a public water supply.
- 32-15.18.3 All storm drainage facilities and public sanitary sewers shall be designed and constructed in accordance with Town standards, subject to the approval of the Town Engineer.

## **32-15A Senior Residential Community**

### **32-15A.1 Purpose**

The purpose of this section is to allow a Senior Residential Community which provides residential opportunities and services in order to enable Seniors to maintain a maximum level of independence, to reflect the continuing concern of the community for the special needs of Seniors and to provide for their safety, health and general welfare. Preferences for available residential units shall be given to Westport residents to the extent permissible under applicable State and Federal laws.

### **32-15A.2 Permitted Uses**

Construction and operation of a Senior Residential Community, including the provision of Dwelling Units for Seniors, which may include Independent Living Facilities, Assisted Living Facilities, Full Care Living Facilities, and/or Senior Center, all as defined herein and in §5-2. A Zoning Permit for Assisted Living Facilities and Full Care Living Facilities cannot be issued until 35% of the Independent Living Facility units are built and Zoning Certificates of Compliance (ZCC's) are issued. No less than sixty percent (60%) of any Independent Living Facility units with Zoning Certificates of Compliance (ZCC's) issued shall be affordable units pursuant to §32-15A.6.

### **32-15A.3 Accessory Uses**

Accessory buildings, structures and uses necessary to the operation of a Senior Residential Community including maintenance, utility, gardens and other recreational facilities customary to, and supportive of, the needs of Seniors.

### **32-15A.4 Location**

A Senior Residential Community lot shall be located on Town-owned land and have frontage on an arterial street as classified by the Planning & Zoning Commission in accordance with the Town Plan of Conservation and Development. All buildings shall be connected to public sanitary sewer and public water. These facilities shall not be located in Special Flood Hazard Areas A and V as shown on the FIRMs for Westport.

### **32-15A.5 Lot Area, Shape and Frontage**

There is no lot shape requirement. Each lot shall have a minimum lot area and shall have a minimum continuous frontage on at least one arterial street, as follows:

| <b>ZONE</b>                            | <b>LOT AREA</b> | <b>LOT FRONTAGE</b>        |
|--|-----------------|----------------------------|
| AAA, AA, A, PRD                        | 4 Acres Minimum | 200' on an arterial street |
| BCD, GBD, HDD, HSD,<br>RBD, RORD, RPOD | 2 Acres Minimum | 200' on an arterial street |

Split Zones: For lots located in both non-residential and residential zones, lot area and frontage shall be governed by the standards of the zone in which the greater portion of the lot lies.

### **32-15A.6 Affordable Units**

- 32-15A.6.1 Not less than sixty percent (60%) of any dwelling units shall be rented at, or below, prices which will preserve the units as housing for persons and families who are compliant with the standards and limitations of CGS 8-30(g).
- 32-15A.6.2 Affordable housing units cannot be clustered, but shall be reasonably dispersed throughout the development and shall contain, on average, the same number of bedrooms and the same quality of construction as the other units in the development. Amenities for the market rate and below market rate units shall be comparable. No affordable unit shall be smaller than 75% of a market rate unit containing the same number of bedrooms.
- 32-15A.6.3 The applicant shall submit an "Affordability Plan" concurrently with a Special Permit and Site Plan application which shall describe how the regulations regarding affordability will be administered. The Affordability Plan shall include a priority system that prefers Westport residents to the extent permissible under applicable State and Federal laws. The amount of income derived from assets shall be guided by applicable state and federal regulations.
- 32-15A.6.4 Affordable housing means:
- assisted housing, which means housing which will receive financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate housing, or
  - any housing occupied by persons receiving rental assistance under Chapter 319 of Section 1437F of Title 42 of the United States Code, or
  - any housing currently financed by the Connecticut Housing Finance authority mortgages or
  - any housing subject to deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will qualify the units as housing for persons and families who are compliant with the standards and limitations of CGS 8-30(g).

The Planning & Zoning Commission shall condition that the approval of affordable units must be eligible for moratorium points pursuant to CGS 8-30(g).

### **32-15A.7 All Other Units**

The applicant shall submit a plan which shall describe how all units other than affordable units provide for a priority system that prefers Westport residents, to the extent permissible under applicable State and Federal laws.

### **32-15A.8 Density**

32-15A.8.1 The maximum allowable density shall not exceed fifteen (15) residential units per gross acre in any permitted zoning district (see §32-15A.8.2).

32-15A.8.2 For the purposes of calculating density, every two (2) beds of an Assisted Living Facility and/or a Full Care Living Facility shall count as one (1) unit.

### **32-15A.9 Setbacks**

32-15A.9.1 Minimum setbacks from lot lines for principal and accessory buildings or structures shall conform to the standards of the underlying zone, except that, pursuant to §32-15A.10, where any building or structure has a height greater than allowed in the underlying zone, the minimum setbacks from an adjacent residential zone shall be doubled.

32-15A.9.2 No setbacks shall be required from Zoning District Boundary Lines crossing the interior of the lot.

### **32-15A.10 Height**

No building or other structure shall exceed a height of 3 ½ stories or forty-five feet (45'), whichever is less. However, the P&Z Commission may allow one (1) additional story and additional feet to accommodate stepped buildings and sloping sites.

### **32-15A.11 FAR**

Total Floor Area Ratio (FAR) shall not exceed 0.35.

### **32-15A.12 Coverage**

The building coverage shall not exceed fifteen percent (15%) and the total coverage shall not exceed 30%.

### **32-15A.13 Unit Sizes**

The gross interior floor area of dwelling units in a Senior Residential Community shall not exceed an average of 1,250 square feet.

### **32-15A.14 Open Space**

A minimum area of open space of 450 sq ft shall be provided for each dwelling unit, as follows:

32-15A.14.1 The P&Z Commission may require land so set aside to be graded, screened, landscaped, and of a passive recreation nature suited to the needs of the residents, and such land may include open interior courtyards. Such recreation areas shall be designed to provide security and privacy and to limit the emission of objectionable noise and light onto abutting properties.

### **32-15A.15 Signs**

Signs shall be permitted in accordance with §33 of the Supplementary Regulations.

### **32-15A.16 Parking and Loading**

Off-street parking and loading shall be provided in accordance with §34 of the Supplementary Regulations except that:

32-15A.16.1 A minimum of one (1) off-street loading space shall be required for any Senior Residential Community facility. The number and location of loading spaces shall be determined by the P&Z Commission; and

32-15A.16.2 The P&Z Commission may require additional parking of up to 0.25 spaces per unit.

### **32-15A.17 Landscaping, Screening and Buffer Areas**

Landscaping, screening and buffer area shall be provided in accordance with §35 of the Supplementary Regulations.

32-15A.17.1 Refuse collection areas shall be provided suitably screened, supplied with covered receptacles and conveniently located to serve the facility.

32-15A.17.2 Ground mounted mechanical units or equipment shall not be located within any setback area or buffer area and shall be suitably screened.

32-15A.17.3 Exterior site lighting shall be adequate for public and resident safety and security. Pole lights shall be limited to a height of sixteen (16') feet with down directed fixtures. Spotlights on the building are prohibited.

### **32-15A.18 Architectural Design**

The architectural design, including the exterior building material, color, roof line and building elevations shall be residential in character and compatible in scale with the neighborhood so as to protect property values and preserve and improve the appearance and beauty of the community.

32-15A.18.1 No wall of any building shall exceed 50 feet in length in an unbroken plane without an off-set of at least five (5') feet;

32-15A.18.2 Rooftop mechanical equipment shall be adequately screened except for energy conservation systems such as solar energy panels;

32-15A.18.3 If more than one building is constructed on a single lot, they shall be so arranged that the minimum horizontal distance between the nearest walls or corners of any principal and/or accessory detached buildings shall not be less than fifteen (15') feet.

### **32-15A.19 Utilities**

32-15A.19.1 All utilities and conduits within the lot shall be underground.

32-15A.19.2 All buildings on the lot shall be connected to public sanitary sewers and served by a public water supply.

32-15A.19.3 All storm drainage facilities and public sanitary sewers shall be designed and constructed in accordance with Town standards, subject to the approval of the Town Engineer.

### **32-15A.20 Subdivision**

Notwithstanding the above, interior lots created by future subdivision(s) after initial Special Permit and Site Plan approval as a Senior Residential Community need not conform to the standards and limitations of these regulations with regard to setbacks, coverage, density, floor area, and/or parking, provided that the originally approved overall special permit area maintains conformity with the standards and limitations of §32-15A and all other applicable sections of these regulations referenced herein, as approved by the P&Z Commission. Lots created by future subdivision after initial Special Permit and Site Plan approval as a Senior Residential Community, but subsequently conveyed for use other than a Senior Residential Community, shall not benefit from the standards and limitations contained in §32-15A.20.

## **32-16 Commercial Wireless Telecommunication Service Facilities**

### **32-16.1 Purpose**

In order to accommodate the communication needs of residents and business while protecting the public health, safety and general welfare of the community, the Commission finds that these regulations which require a special permit are necessary in order to:

- 32-16.1.1 Accommodate the need for wireless telecommunications antennas while regulating their location and number;
- 32-16.1.2 Minimize adverse visual effects of wireless telecommunications antennas and antenna or wireless telecommunication towers through proper design, siting and vegetative screening;
- 32-16.1.3 Avoid potential damage to adjacent properties from antenna or wireless telecommunication towers and falling ice through their proper siting and engineering;
- 32-16.1.4 Encourage the joint use of any new antenna or wireless telecommunication tower;
- 32-16.1.5 Preserve the character, appearance and property values within the Town of Westport while allowing adequate commercial wireless telecommunication service facilities to be developed;
- 32-16.1.6 Protect the scenic, historic, environmental and natural resources of the community; and
- 32-16.1.7 Lessen potential adverse effects of commercial wireless telecommunication service facilities by minimizing the total number and height of such facilities, maximizing the use of existing structures in commercial districts for such facilities and by requiring providers to share locations where feasible.

Based on the foregoing purpose nothing stated herein shall diminish or restrict the P&Z Commission's obligation to consider the criteria set forth in §44-6 of the zoning regulations. All commercial wireless telecommunication service facilities shall require a special permit and must conform to the standards set forth in pursuant to §44-6.

### **32-16.2 Location**

The siting of commercial wireless telecommunication service facilities involved in receiving or transmitting electromagnetic waves associated with commercial wireless telecommunication services are confined to the following commercial and mixed-use zoning districts: DDD with a minimum lot size of 10 acres, BCD, BPD, CPD, GBD, HDD, HSD, RBD, RORD, RPOD zones.

This limitation as to zone shall apply unless the service provider shall demonstrate to the P&Z Commission that such a restriction has the effect of prohibiting the provision of a reasonable quality of personal wireless service to the Town of Westport.

- 32-16.2.1 Commercial wireless telecommunication service facilities shall be located on existing structures, such as existing buildings, water towers, utility poles or existing telecommunications facilities, provided that such installation preserves the character and integrity of those structures. These telecommunication service facilities shall be camouflaged. Existing telephone and electric utility structures also need to be considered as sites for one or more commercial wireless telecommunications service facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.
- 32-16.2.2 If the applicant provides proof that it is not feasible to locate on an existing structure, commercial wireless telecommunication service facilities shall be designed so as to be camouflaged. The applicant shall use compatible building materials and colors, screening, landscaping and placement within trees, or shall disguise the structure to resemble a tree or structure compatible with the site.
- 32-16.2.3 The applicant shall submit documentation indicating Federal Communication Commission licensure supporting the legal right to install and use the proposed facility mount at the time of application for a Special Permit.
- 32-16.2.4 The following additional siting criteria are required:
  - (a) No tower shall be located on land designated or deed-restricted as open space.
  - (b) No tower may be constructed within a mile radius of an existing tower.

### **32-16.3 Setbacks**

- 32-16.3.1 Antenna towers, telecommunication towers and rooftop antennas shall adhere to the setback requirement of the zoning district in which the tower or antenna is located. No tower can be located a minimum of 50 ft. or within the fall zone, whichever is greater, from of any residential property line.

#### **32-16.4 Height**

- 32-16.4.1 No communication tower, including any antenna attached thereto, shall exceed a height of 150 feet, measured to the top of the highest antenna from the average existing grade surrounding and within 10 feet around the proposed tower. The overall height of a telecommunication tower or antenna on a building cannot exceed 150 feet measured from the existing grade of the ground.

#### **32-16.5 Accessory Buildings and Equipment**

- 32-16.5.1 Any equipment must be housed in an existing building or in a building not to exceed 750 square feet of gross floor area or be more than 16 feet in height. Manned equipment including a business office, maintenance depot and vehicle storage is prohibited in a residential district.
- 32-16.5.2 All accessory or equipment buildings shall be architecturally designed to blend in with the surrounding environment. All buildings and/or grounds shall conform to the general style of architecture and landscaping in the neighborhood.
- 32-16.5.3 If the equipment is located on the roof of a building, the area of the equipment building and other equipment structures shall not occupy more than twenty-five (25) percent of the roof area and must be suitably screened.

#### **32-16.6 Additional Standards**

- 32-16.6.1 No signs shall be permitted on any facility unless otherwise permitted by these regulations set forth in §33, as amended from time to time.
- 32-16.6.2 All utilities proposed to serve a commercial wireless telecommunication service facility shall be installed underground.
- 32-16.6.3 All commercial wireless telecommunication service facilities shall comply with FCC standards for non-ionizing electromagnetic emissions and upgraded as necessary to comply with new scientific findings and associated regulations. All generators and equipment shall comply with all state and local noise and emission regulations. Proper documentation to prove compliance with these standards must be submitted with each application.
- 32-16.6.4 No commercial wireless telecommunication service facility shall be permitted on property located within a Westport Historic District, National Register Historic District or on any property located on the state or national Register of Historic Places.
- 32-16.6.5 Antenna towers and telecommunication towers shall be camouflaged or painted to reduce visual impact.
- 32-16.6.6 A fence with a height of eight (8) feet shall be required around an antenna tower or telecommunication tower and any free-standing equipment.

- 32-16.6.7 Landscaping shall be required around the fence and shall consist of a row of evergreen trees (planted 10 feet on center minimum). The evergreen screen shall be a minimum height of six (6) feet at planting and shall grow to a minimum height of fifteen (15) feet at maturity. Such screen shall be maintained by the owner of the property to ensure its effectiveness.
- 32-16.6.8 The proposed support structure (tower or building) shall be designed for additional facilities including other commercial wireless telecommunication service facilities, and local police, fire and ambulance needs, unless it is determined to be technically unfeasible.
- 32-16.6.9 Written notice of a proposed telecommunication tower must be sent to any municipality located within 1,500 feet from the tower. Said notice must be sent by registered mail to the Town Clerk's office of the adjoining municipality.

### **32-16.7 Materials for Application Submission**

Construction of a commercial wireless telecommunication service facility requires a Site Plan and Special Permit approval from the P&Z Commission. Documents to be filed with the application shall be the same as those described in §44 of the Westport Zoning Regulations with the following additional information:

- 32-16.7.1 A description of technological alternatives for the proposed telecommunication tower and a statement containing the reasons for the choice of the proposed facility.
- 32-16.7.2 A statement containing a description of the siting criteria and the process by which other possible sites were considered and eliminated.
- 32-16.7.3 Photographs showing existing conditions. Each sight line shall be illustrated by a photograph depicting what can currently be seen from any public road and residential area within a one mile radius.
- 32-16.7.4 Photographs showing proposed conditions. Each of the existing condition photographs shall have the proposed commercial wireless telecommunication service facility superimposed on it to show what will be seen from public roads and residential area within a one mile radius if the proposed commercial wireless telecommunication service facility is built.
- 32-16.7.5 A map depicting the extent of the provider's existing and planned coverage and the service area of the proposed commercial wireless telecommunications service facility.
- 32-16.7.6 If coverage greater than 50% from the proposed commercial wireless telecommunications services facility is outside Westport, the applicant must demonstrate that they are unable to locate, for reasons other than financial, within the municipality which is primarily receiving service from the proposed facility.
- 32-16.7.7 Demonstration on a map that reasonable coverage and capacity is either not already being provided in the Town of Westport or the potential to provide coverage is not possible by modifying other sites.

- 32-16.7.8 Demonstration on a map and in a written narrative, of the provider's long range plan for location and necessity of facilities within the Town of Westport describing existing and proposed coverage areas. Such long range plan shall span a time period not less than 36 months from the anticipated time of installation. The long-range plan shall include a report of technological progress relevant to the application. Special emphasis should be placed upon planning that recognizes that technological progress can be used to both improve the quality of service and lessen the impact upon the quality of life. For example, improved receivers can reduce required power levels. Similarly, improved coding systems can reduce interference and improve signal to noise ratios which reduces the probability of a call being dropped.

### **32-16.8 Review by Independent Consultants**

The applicant shall hire independent consultants approved by the P&Z staff to conduct an independent review of any application for a new tower. The consultants will work under the direction of the P&Z Dept. As many qualified professionals as are necessary must be hired so that the following fields of expertise are addressed: a) telecommunications engineering, b) structural engineering and d) others as determined by the P&Z Office. The P&Z Director may waive this requirement for municipal public safety service providers (police, fire, and emergency medical service).

### **32-16.9 Requirement to Fly Balloon**

When an antenna tower or a telecommunication tower is proposed, prior to the meeting with the Commission the applicant shall arrange to fly a brightly colored three foot diameter balloon at the site that is at the maximum height of the proposed installation. The applicant shall provide written notification to the P&Z Commission, at least ten days in advance, of the time and date of the flight. The balloon shall be flown for at least three consecutive hours between 9:00 A.M. and 5:00 P.M. on the dates chosen.

### **32-16.10 Abandonment**

A commercial wireless telecommunication service facility not in use for six (6) months shall be removed by the facility owner and/or the property owner. This removal shall occur within ninety (90) days of the end of such six (6) month period.

### **32-16.11 Bond**

A bond shall be required in an amount determined by the Town Engineer at the time of issuance of a zoning permit for the construction of all telecommunication towers and antenna(e) to ensure that such removal will be accomplished.

### **32-16.12 Zoning Certificate of Compliance**

- 32-16.12.1 Subsequent to completion of the telecommunication tower, a certificate from a structural engineer licensed in the State of Connecticut confirming that the tower is properly constructed and structurally sound shall be submitted.

### **32-17 Affordable and Middle Income Housing on Town-Owned Property**

#### **32-17.1 Purpose**

It is the purpose of this section to address the need of the Town of Westport for additional one family, two-family and multi-family affordable and middle income housing. This Regulation is intended to promote the health, safety and general welfare of the community by authorizing the conversion of existing municipal buildings and the construction of new buildings on town-owned property for the purpose of decent, safe and sanitary dwelling units and such dwelling units shall be rented or sold at below market rate. Fifty percent (50%) of the dwelling units on a property shall be affordable. The remainder will be middle income housing. In case of an uneven number of housing units more than 50% of the dwelling units shall be affordable. In the case of one dwelling on a property the unit shall be for middle income housing.

a) The affordable housing to be provided will be affordable housing defined as:

- assisted housing, which means housing which will receive financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate housing, or
- any housing occupied by persons receiving rental assistance under Chapter 319 of Section 1437F of Title 42 of the United States Code, or
- any housing currently financed by Conn. Housing Finance Authority mortgages or
- any housing subject to deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty percent (30%) or less of income, where such income is less than or equal to eighty percent (80%) of the median income.

Median income means, after adjustments for family size, the lesser of the state median income or the area median income for the area in which the municipality containing the affordable housing development is located, as determined by the United States Department of Housing and Urban Development.

b) Middle Income Housing will be housing for persons or families earning up to or equal to 80% of the median income of the Stamford Norwalk Service Area of which Westport is a part.

#### **32-17.2 Permitted Uses**

Affordable housing and middle income housing only, as defined in §32-17.1 on the date that the application is filed under this section of the Zoning Regulations. Conversion of existing town owned buildings and the construction of new buildings on town-owned land for single family, two-family or multi-family dwelling units shall be permitted under this Section, subject to a Special Permit and Site Plan approval in accordance with §43 and §44 of these Regulations. Hotels, motels, rooming, boarding, Home Occupation, Level 1 or Home Occupation, Level 2, lodging houses or tourist homes shall not be permitted.

**32-17.3 Accessory Uses**

Necessary accessory buildings, structures and uses including, but not limited to, facilities for recreation, maintenance, administration, off-street parking, storage and utilities serving the development may be permitted.

**32-17.4 Density**

- a) The minimum required lot area shall not be less than 3,000 square feet of land. The project density shall not be greater than six (6) dwelling units per gross acre with no more than a total of 36 dwelling units.
- b) The types of units shall be limited to efficiency, one-bedroom and two-bedroom dwelling units, except a single family dwelling may have three bedrooms.
- c) The gross interior floor area per dwelling unit shall not exceed: (1) six hundred (600) square feet for an efficiency; (2) eight hundred and fifty (850) square feet for a one-bedroom unit; and (3) one thousand (1,000) square feet for a two-bedroom unit; unless such parts of the existing building are otherwise arranged or designed to be reasonably, conveniently and safely transformed into slightly larger units.
- d) The gross interior floor area of a unit in a multifamily or two family unit, shall exclude garage parking spaces, common storage areas, common stairs, common halls, common foyers and other similar spaces used in common.
- e) Libraries, dens, studios or similar rooms in any dwelling unit shall be counted as bedrooms.

**32-17.5 Setbacks**

No new principal building, structure or use and no new accessory building, structure or use shall extend closer than 30 feet from any street line and 25 feet from any side or rear property line except in a Res. AAA Zone where all setbacks shall be at least 50 feet.

**32-17.6 Height**

The height of an existing municipal building shall not be increased in the course of conversion except for necessary mechanical units, elevator shafts, skylights, solar panels and other similar features which shall not extend more than 4 feet above the height of the existing building. No new accessory building or structure shall exceed a height of either 12 feet to the top of a flat roof or 16 feet to the peak. Additions to a building cannot exceed the height of the existing building.

The height of new buildings shall not exceed 2 stories and 26 feet in height.

**32-17.7 Coverage (See Definitions)**

The building coverage shall not exceed fifteen percent (15%) and the total coverage shall not exceed twenty-five percent (25%) of the lot area.

**32-17.8 Building Spacing**

Groups of buildings on a single lot shall be so arranged that the minimum horizontal distance between the nearest walls or corners of any principal and/or accessory detached buildings shall not be less than one-half the sum of the heights of such adjacent buildings for new buildings.

**32-17.9 Signs**

Signs shall be permitted in accordance with §33 of the Supplementary Regulations.

**32-17.10 Parking and Loading**

Off-street parking and loading shall be provided in accordance with §34 of the Supplementary Regulations and the following additional standards:

32-17.10.1 A safe and convenient system of drives, service access roads and walks shall be provided and shall be designed with amenities such as handrails and ramps. Such facilities shall be adequately lighted from poles no higher than 16 feet and said lighting shall be down-directed. Gradients of new walks shall not exceed five (5) percent.

32-17.10.2 All parking areas, including aisles and driveways, shall be paved with hard-top surfaces upon a suitable subgrade. The pavement areas shall be adequately drained so as to prevent excessive accumulations of water, snow and ice.

**32-17.11 Landscaping, Screening and Buffer Areas**

Landscaping shall be provided in accordance with §35 of the Supplementary Regulations.

32-17.11.1 Refuse collection areas shall be provided, screened, supplied with covered receptacles, and conveniently located to serve all dwelling units.

32-17.11.2 Mail boxes shall be provided, covered from the elements and conveniently located to serve all dwelling units.

**32-17.12 Utilities**

The applicant must investigate the existing capacity sewer collection and treatment system to accommodate any increase in sanitary sewer flow created by the proposed conversion.

All utilities and conduits within the lot shall be underground.

No Zoning Certificate of Compliance shall be issued for any dwelling or dwelling unit unless and until such dwelling or unit has been connected to a public water supply, suitable power supply and a public sanitary sewer line or private septic system.

All storm drainage facilities and public sanitary sewers shall be designed and constructed in accordance with Town Standards, subject to the approval of the Town Engineer. Septic systems require approval by the Westport Weston health District.

**32-17.13 Usable Open Space**

There shall be at least 450 square feet of usable open space for each dwelling unit. Land so set aside shall be properly laid out, graded, screened and landscaped and shall include recreation facilities suited to the needs of the residents and may include land adjacent to each unit for use by its occupant.

**32-17.14 Change of Use**

No dwelling unit approved under these provisions shall thereafter be changed to any non-residential use.

**32-17.15 Architectural Design**

32-17.15.1 The building fenestration, facade and roof line shall be preserved.

32-17.15.2 All buildings shall be compatible with the existing architecture.

32-17.15.3 The historic and/or architectural integrity of the existing building shall be maintained.

32-17.15.4 Dwelling unit facades need to be designed to avoid a barracks or dormitory appearance. Staggered or offset unit facades and/or varied unit façade materials shall be utilized.

32-17.15.5 All mechanical units shall be screened, ground mounted and rooftop.

**32-18 Historic Residential Structure (HRS)**

**32-18.1 Purpose**

The purpose of this regulation is to further the preservation, rehabilitation, restoration, reconstruction and/or adaptive re-use of historic structures containing existing special permit uses listed in §11-2.1 thru §11-2.2.13, historic residential structures and associated historic accessory structures in Westport residential districts. The P&Z Commission may, by grant of a Special Permit/HRS, authorize the use, setback, height parking, landscaping and coverage incentives of this section in those circumstances where applicable zoning regulations have the practical effect of discouraging the preservation or continued use of historic buildings and historic accessory structures.

**32-18.2 Definitions**

**32-18.2.1 Historic Structure**

For the purposes of this regulation, a structure is considered historic if, as of the effective date of this regulation, it is located in Westport and meets at least one of the following criteria:

- (a) The structure or accessory structure is:
  - (i) A property listed or eligible for listing on the National or State Register of Historic Places or is a contributing historic resource in an established or eligible National or State Historic Register District; and
  - (ii) Has been determined to be historic by the Historic District Commission (“HDC”) Administrator after consultation with the Historic District Commission or its designee.
- (b) The structure or accessory structure is a local Historic Landmark Property or a contributing resource in a local Historic District. Such Properties and Districts are listed in Chapter 63 of the Town Code.

- (c) The structure or accessory structure is:
  - (i) Listed on the Westport Historic Resources Inventory; and
  - (ii) Has been determined to be historic by the HDC Administrator after consultation with the Historic District Commission or its designee.
  
- (d) The structure or accessory structure has been determined eligible for consideration under this Section by the Historic District Commission or its designee after consideration of including but not limited to the following standards:
  - (i) The structure is fifty or more years old.
  - (ii) The property is associated with events or persons important to the history and development of the Town of Westport, State of Connecticut or the Nation.
  - (iii) The property is associated with a famous person.
  - (iv) The structure was designed by a significant architect.
  - (v) The structure is indicative of a significant architectural style or period.
  - (vi) The structure contributes contextual significance to the historic or cultural value of the property

**32-18.2.2 Alteration, Historic Structure**

Any Regulated Activity in the Westport Historic Districts & Properties Handbook, or any relocation, demolition, restoration or reconstruction of the historic structure or historic accessory structure.

**32-18.2.3 Scale**

The relationship of a structure, as a whole to its neighboring structures, street and landscape. For the purposes of this regulation, neighboring structures are understood to be those located on properties within 250 feet of the subject property.

**32-18.3 Application Requirements**

An application for Site Plan and Special Permit/HRS shall be submitted as required under Section 44 of the regulations. In addition to Section 44, the applicant must submit the following:

- (a) Information sufficient to demonstrate that the structure or accessory structure meets any one of the criteria set forth in §32-18.2 (a) through (d) hereof.
- (b) Any proposed plans for alteration to the historic structure or historic accessory structure or its use.

- (c) All applications shall be accompanied by a perpetual preservation easement pursuant to Connecticut General Statutes, Section 47-42 a-c, enforceable by both the P&Z Commission and the Historic District Commission, which shall provide, among other things, for the right of the holder of the easement to do all things necessary to preserve the structural and historic integrity of the historic structure or historic accessory structure and to charge the expense thereof to the owner upon the owner's failure to keep the exterior of the structure in good repair.
- (d) All applications shall be referred to the Historic District Commission and the Architectural Review Board for a combined recommendation from a joint meeting. Their guidelines for review will be the most recent Secretary of the Interior's Standards for the Treatment of Historic Properties, Standards for Rehabilitation.

#### **32-18.4 Considerations**

When considering a Special Permit/HRS application, the P&Z Commission shall consider and determine in each case whether:

- (a) The preservation of the historic structure or historic accessory structure is in the public interest and will promote the general health and welfare of the residents of the Town.
- (b) The proposal will permit the preservation and exterior historic integrity of the historic structure or historic accessory structure.
- (c) The historic structure or historic accessory structure will require height, setback, coverage parking, and/or landscaping incentives, provided that the number of existing parking spaces shall not be reduced, and, in the case of historic structures containing existing special permit uses and/or historic accessory structures, use incentives to allow for its preservation, retention of its historic scale and/or its location on the property.
- (d) The proposal will be contextually consistent with the architectural design, scale and massing of the subject structure as well as with its immediate surroundings. Scale is the primary consideration in determining whether a historic structure or historic accessory structure is compatible with its setting.
- (e) The proposal will not adversely affect public safety.
- (f) The proposal will be consistent with the current Town Plan of Conservation and Development and other Westport zoning regulations.
- (g) The proposal will be consistent with the Special Permit standards in §44-6.

#### **32-18.5 Commission Action**

After the required public hearing is held and findings are made, the Commission may, at its sole discretion:

- (a) Allow an area or dimensional requirement (height, setback, coverage) and/or a parking or landscaping requirement (number, size or dimension) to be reduced or exceeded, provided that the number of existing parking spaces shall not be reduced.
- (b) Allow Home Occupations, Level 1 and Home Occupations, Level 2, and Accessory apartments in a historic accessory structure under such conditions as set forth in §32-18.8 hereof.
- (c) Allow limited office uses in one historic accessory structure containing an existing special permit use under such conditions as set forth in §32-18.8 and §32-18.9 herein.

### **32-18.6 Conditions of Approval**

Any Special Permit/HRS approved by the P&Z Commission under this regulation shall be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties.

- (a) A copy of this document is available at the P&Z Dept. and online at: CT Trust for Historic Preservation.
- (b) Prior to issuance of a Zoning Permit, the applicant shall grant a perpetual preservation easement pursuant to Connecticut General Statutes, §47-42 a-c, enforceable by both the P&Z Commission and the Historic District Commission, which shall provide, among other things, for the right of the holder of the easement to do all things necessary to preserve the structural and historic integrity of the historic structure or historic accessory structure and to charge the expense thereof to the owner upon the owner's failure to keep the exterior of the structure in good repair.
- (c) Any Special Permit/HRS granted under this regulation shall prescribe the specific conditions to be observed and exterior architectural elements (See Westport Historic Districts & Properties Handbook) which are to be maintained for the subject structure.

### **32-18.7 Alterations, Historic Structure**

Once a Special Permit/HRS has been granted, the historic structure or historic accessory structure shall not be altered unless such alteration is reviewed by the HDC Administrator to evaluate whether HDC review is needed and is reviewed by the P&Z Commission or their designee to determine if approval is required from the P&Z Commission.

- 32-18.7.1 Any significant maintenance requirements to a historic structure or historic accessory structure covered by this regulation required to preserve its structural and historic integrity shall be completed by the owner within a reasonable period or within eighteen months of notification by the Zoning Enforcement Officer.
- 32-18.7.2 Emergency repairs may be made by the owner as a result of fire, flooding, or other similar type of damage. The Zoning Enforcement Officer shall be notified in writing not later than 72 hours after the repair or stabilization process is initiated. A plan for permanent repair must be submitted for review to the P&Z

Office. This will include review by the HDC Administrator. The subject structure must be returned to its previous exterior appearance within eighteen months.

### **32-18.8 Change of Use**

Any change in use of any historic structure or historic accessory structure which has an approved Special Permit/HRS under this regulation may only be authorized by application to, and approval by, the P&Z Commission. Said application shall contain all relevant information pertaining to the previously approved use and proposed change of use for the historic structure or historic accessory structure. The P&Z Commission shall determine if the proposed change in use is appropriate and in keeping with the intent of the original Special Permit/HRS granted for the subject structure according to the standards referenced in §32-18.4 hereof.

### **32-18.9 Permitted Uses of Historic Accessory Structure**

32-18.9.1 Home Based Business: Special Permit and Site Plan approval in accordance with Section 43 herein is required for the use of an historic accessory structure for a Home Based Business. All conditions associated with §11-2.4.6, Home Office, or §11-2.4.6A, Home Occupation, Level 1, or §32-21 Home Occupation, Level 2, as applicable are required to be met except as modified herein:

- (a) Location: the Home Based Business shall be incidental and clearly a secondary use of the residential use of the property.
- (b) Floor Area: the total interior floor area as of the effective date of this regulation may be devoted to a Home Based Business in an historic accessory structure.

32-18.9.2 Accessory Apartments: one historic accessory structure or portion thereof may be converted to allow the incorporation of one (1) additional dwelling unit on the premises subject to Special Permit and Site Plan Approval in accordance with §43 herein, and all conditions associated with §11-2.4.12 Accessory Apartments except as modified herein:

- (a) Qualifications: no accessory apartment exists in the main dwelling unit nor does any other historic accessory structure contain a dwelling unit.
- (b) Eligibility: No age restriction.
- (c) Floor Area: the total floor area of the historic accessory structure used for a dwelling unit shall be the larger of the following:
  - (i) The size of the historic accessory structure as of the effective date of this regulation.
  - (ii) Up to 800 square feet, including additions to the original historic accessory structure.
  - (iii) Up to 1,000 square feet, including additions to the original historic structure, if the unit is designated affordable in compliance with the affordability standards of Connecticut General Statutes §8-30(g) and is deed restricted on the Westport Land Records for 40 years as an affordable unit. (See §32-18.10)

32-18.9.3 Annual Certification: prior to the issuance of a Zoning Permit, a certificate in the form of an affidavit to verify that the principal owner is in residence or has inspected and performed necessary preservation maintenance or in possession of a special permit use for the subject property. Thereafter, the principal owner shall submit such notarized affidavit to the P&Z Office by January 31<sup>st</sup> of each year as a requirement for the continuance of the Special Permit/HRS.

32-18.9.4 Limited Offices:

One historic accessory structure or portion thereof containing an existing special permit use may be converted to limited office space subject to Special Permit and Site Plan Approval in accordance with §43 & §44, except as modified herein; provided that the following requirements are met:

- (a) Location: The existing Special Permit site (lot):
  - (1) must have frontage on a collector or arterial street,
  - (2) must adjoin a commercial zoning district, and
  - (3) must be within 500 feet of a municipal (Town-owned) public parking lot.
- (b) Office Uses: The allowable office uses shall be limited to business, professional or other administrative offices accessory to and directly associated with the existing Special Permit Use. Healthcare offices, medical offices, banks and retail uses shall be excluded.
- (c) Floor Area: The floor area devoted to limited office uses shall not exceed either; 5,100 square feet, 60% of the total existing floor area within the accessory historic structure or 20% of the total existing floor area on the site, whichever is less.

#### **32-18.10 Affordable Accessory Apartment in Historic Accessory Structure Requirement**

32-18.10.1 The income of the occupant(s) of any Affordable Accessory structure shall not exceed 80% of the state median adjusted for family size, as determined by the United States Department of Housing and Urban

Development for the State of Connecticut, in accordance with CGS 8-30(g). The rental charge for this unit shall not exceed 30% of the renters' income.

32-18.10.2 In conjunction with an application for approval of a Special Permit for an affordable accessory apartment in an historic accessory structure, the applicant shall submit an Affordability Plan, in accordance with CGS §8-30(g) which shall describe how the regulations regarding affordability will be administered. The plan shall include provisions for administration of and compliance with the income of the occupant of the affordable unit and the rent charged. It shall also include procedures for verification and yearly confirmation to the P&Z Dept. of the unit occupancy income in compliance with the affordability requirements and an explanatory statement that will be provided to the occupant of the affordability unit of the restrictions on income and rent for the unit. In addition, it must

include notice procedures to the general public of the availability of the affordable unit.

### **32-19 Permanent Lighted Athletic Fields on Town Owned Public School Property**

#### **32-19 Purpose**

The purpose of this regulation is to encourage expanded use of Town owned public school athletic fields while not causing unreasonable adverse impacts to surrounding residential neighborhoods. Permanent Lighted Athletic Fields on Town Owned Property may be permitted on properties that have a minimum of 20 acres and a minimum of 200 parking spaces. The amount of lighting required shall achieve safe conditions for athletes, coaching staff and spectators. Permanent Lighted Athletic Fields on Town Owned Property are subject to a Special Permit and Site Plan approval in accordance with §43 & §44, herein, and subject to the following conditions:

#### **32-19.1 Application Requirements**

An application for Site Plan and Special Permit shall be submitted as required under §43 & §44 of the regulations. In addition the applicant must submit the following:

- (a) photometric plans for the entire area to be lighted including a separate plan for Westport athletic special events and separate plans for practices. These plans shall show all property lines that abut the area to be lighted. The values to be measured are to be the vertical and horizontal foot candles measured at the property line on a ten foot vertical grid at ground level up to the highest elevation of any lighting structure or luminary.
- (b) a design plan for the sound system and sound mitigation that minimizes the impacts on adjacent properties.

#### **32-19.2 Considerations**

When considering Lighted Athletic Fields on Town Owned Property, the P&Z Commission shall consider and determine in each case the following:

- (a) the impact that such approval shall have on the general health and welfare of the residents of the Town,
- (b) the effects of light and noise that this approval will have upon surrounding residential neighborhoods,
- (c) the proposal will not adversely affect public safety.
- (d) the proposal will be consistent with the current Town Plan of Conservation and Development and the Westport zoning regulations.
- (e) the proposal will be consistent with the Special Permit standards in Section 44-6.

#### **32-19.3 Commission Action**

After the required public hearing is held and findings are made, the Commission may, at its sole discretion:

- (a) approve the application as proposed or introduce additional requirements or conditions to insure that surrounding residential areas are not unreasonable adversely impacted as a result of the application
- (b) deny any application that would cause unreasonable adverse impacts to surrounding residential areas.

#### **32-19.4 Conditions of Approval**

Any Special Permit for a lighted athletic field on town owned public school property approved by the P&Z Commission under this regulation shall be subject to the following.

- (a) The property shall be a minimum 20 acres in size and have a minimum of 200 parking spaces.
- (b) All structures used to light athletic fields shall achieve a minimum 50 foot setback from all residential property boundaries.
- (c) The structures used to light athletic fields shall not exceed 80 feet in height measured from ground elevation at the center of the field to the highest point of the structure including any attached fixture.
- (d) Lighting structures shall be designed to avoid light spillage onto and minimize offensive glare visible from surrounding residential properties. All lighting must be down directed to the greatest extent possible. No measurement of luminance taken at the property line as a result of lighting sources located on the subject property shall exceed 0.3 foot candles as measured in the photometric plan required in §32-19.1a. The 0.3 foot candles may be achieved by using evergreen screening and/or fencing or other types of screening acceptable to the Commission.
- (e) All athletic field lighting must be turned off at the earlier of either a) 30 minutes after the end of any event, practice or other activity, or b) 8:00 pm. No game or event may be scheduled to start later than 7:30 pm. The lighting control system shall have provisions acceptable to the Commission in order to guarantee these limited use restrictions which must be specified in a special permit application.
- (f) The Commission may, at its discretion, permit a limited number of exceptions to the 0.3 foot candle limitation and the 8:00 pm curfew for Westport athletic special events provided that a) the measurement of luminance at the at the property line as a result of lighting sources at the subject property may not exceed 1.0 foot candle as measured in the photometric plan specified in §32-19.1a for Westport athletic special events and b) all athletic field lighting is turned off by 11:00 pm.
- (g) No athletic field lighting may be used at any time on either Saturdays or Sundays. No athletic field lighting may be used between December 1<sup>st</sup> and September 1<sup>st</sup> except for permitted spectator events.

- (h) There shall be no more than 12 lighted Westport athletic special events at any particular facility during any 12 month period that begins September 1<sup>st</sup> of each year. No later than August 15<sup>th</sup> of each year a list of special events for the upcoming 12 month period shall be submitted to the P&Z Dept. The Commission may, at its discretion, further limit the number of or prohibit lighted special events and impose additional requirements or restrictions on lighted special events as it deems necessary.
- (i) There shall be no more than 2 properties with permanent or temporary lighted athletic fields constructed after the effective date of this amendment (10-5-11).
- (j) There shall be no more than 1 permanent or 2 temporary lighted athletic Field(s) per property but not a combination of permanent and temporary lights.
- (k) The use of gas or diesel power generators, except as emergency backup, shall be prohibited except if specifically approved by the P&Z Commission as temporary athletic field lighting pursuant to §32-19A.
- (l) The applicant shall provide information about sound and noise as part of any special permit application. Any application shall demonstrate that noise and sound effects on surrounding residential properties shall be to the minimum extent possible. If deemed necessary by the Commission sound attenuation measures shall be installed. A public address system shall only be used for varsity Westport athletic special events. There shall be no amplified music for any event after 9:00 pm.
- (m) Any additional requirements or restrictions the Commission determines at its discretion are necessary to insure that adjacent properties are not significantly adversely impacted by the proposed special permit.
- (n) All special permit applications under this section shall provide guidelines for controlling, air horns, bull horns and similar devices.
- (o) The lighted fields shall only be used for Westport team athletic practices and games (except for required league reciprocity).
- (p) Prior to the issuance of a Zoning Certificate of Compliance the applicant shall submit a final engineer's certification of luminance measurements at the property line.

***32-19A Temporary Athletic Field Lighting for Practice on Town Owned Public School Property.***

**32-19A Purpose**

The purpose of this regulation is to encourage expanded use of Town owned public school athletic fields while not causing unreasonable adverse impacts to surrounding residential neighborhoods. Temporary Athletic Field Lighting for Practice on Town Owned Public School Property may be permitted on properties that have a minimum of 20 acres and a minimum of 200 parking spaces. For the purpose of this section "Temporary" means for the part of the year (i.e., 3

months). The amount of lighting required shall achieve safe conditions for athletes and coaching staff. Temporary Athletic Field Lighting for Practice on Town Owned Public School property are subject to Site Plan approval in accordance with §43 & §44, herein, and subject to the following conditions:

### **32-19A.1 Application Requirements**

An application for Site Plan shall be submitted as required under §43 & §44 of the regulations.

### **32-19A.2 Considerations**

When considering Temporary Athletic Field Lighting for Practice on Town Owned Public School Property, the Planning and Zoning Commission shall consider and determine in each case the following:

- a) the impact that such approval shall have on the general health and welfare of the residents of the Town,
- b) the effects of light and noise that this approval will have upon surrounding residential neighborhoods,
- c) the proposal will not adversely affect public safety.
- d) the proposal will be consistent with the current Town Plan of Conservation and Development and the Westport zoning regulations.

### **32-19A.3 Requirements**

Any Site Plan for a Temporary Athletic Field Lighting for Practice on Town Owned Public School Property approved by the P&Z Commission under this regulation shall be subject to the following.

- a) The property shall be a minimum 20 acres in size and have a minimum of 200 parking spaces.
- b) All structures used to temporarily light athletic fields shall achieve a minimum 50 foot setback from all residential property boundaries.
- c) The temporary structures used to light athletic fields shall not exceed 50 feet in height measured from ground elevation at the center of the field to the highest point of the structure including any attached fixture.
- d) The placement of temporary portable lighting shall avoid light spillage onto and minimize offensive glare visible from surrounding residential properties. All lighting must be down directed and shielded to the greatest extent possible.
- e) Temporary lighting approved under this section shall be for athletic practice only and shall not be used for Westport athletic special events or any other purpose.
- f) All temporary athletic field lighting for practice must be turned off at the earlier of either a) 30 minutes after the end of practice or b) 8:00 pm.

- g) No temporary athletic field lighting may be used between December 1<sup>st</sup> and September 1<sup>st</sup>. Lights may only be used Monday through Friday, including school holidays.
- h) The applicant shall provide information about sound and noise as part of any Site Plan application. There shall be no use of a public address system or amplified music.
- i) There shall be no more than 2 properties with permanent or temporary lighted athletic fields constructed after the effective date of this amendment (10/5/11).
- j) There shall be no more than 1 permanent or 2 temporary lighted athletic field(s) per property but not a combination of permanent and temporary lights.
- k) Any additional requirements or restrictions the Commission determines at its discretion are necessary to insure that adjacent properties are not significantly adversely impacted by the proposed site plan.
- l) All site plan applications under this section shall provide guidelines for controlling, air horns, bull horns and similar devices.
- m) The temporary lighted fields shall only be used for Westport team athletic practices as sponsored or sanctioned by the Board of Education or the Westport Parks and Recreation Department. Use of temporary Athletic Field Lighting for fairs, bands, concerts or other musical events shall be prohibited.

#### **32-19A.4 Annual Permit**

Any Site Plan for a Temporary Athletic Field Lighting on Town Owned Public School Property approved under this section shall be subject to an annual Zoning Permit issued by the P&Z Department.

#### **32-20 Special Requirements for Outdoor Eating Areas**

Outdoor Eating Areas as defined in §5 shall be permitted in all Non Residential Zones, except RPOD, DDD and CPD subject to the following requirements:

1. **Required Departmental Approvals:** All Outdoor Eating Area applications shall be approved, as applicable, by the Westport-Weston Health District, the Police Department and the Fire Marshall's office as applicable prior to the issuance of a zoning permit.
2. **Design/Use of Area:** Outdoor Eating Areas may use umbrellas, tents, canopies or fixed awnings and may be located on a patio or deck. On vegetated landscaped surfaces only umbrellas may be used. Such a structure may have rigid supports and fabric or soft (non rigid) sides. Such areas may be heated. These areas may not be considered in the future as permanent building additions. There shall be no music in any Outdoor Eating Area. after 9:00 PM except if approved by Special Permit. The hours of operation shall be limited to 6:30am to 11:00pm on Sundays through Thursdays and 6:30am to 12:00

midnight on Fridays and Saturdays except if approved by Special Permit to operate as late as 2:00am.

3. **Size/Parking Requirements:** Outdoor Eating Areas shall not require additional parking if the area does not exceed twenty (20) percent of the interior patron Floor Area of a Restaurant, Café or Tavern or twenty (20) percent of the Floor Area of a Retail Food Establishment or 500 square feet whichever is less. Parking shall be required for the portion of an Outdoor Eating Area that is in excess of the above measurements in accordance with the parking requirements for patron area of a Restaurant. The measurement of all Outdoor Eating Areas shall be the area encompassed by the tent, canopy, awning, patio deck or landscaped area used as an Outdoor Eating Area as shown on a site plan, whichever is larger.
4. **Seasonal Use:** The Outdoor Eating Areas may be used all year round, however if such area is covered by a tent, canopy or fixed awning and will not be used on a continuous basis all elements of the tents, canopies or fixed awnings shall be removed from the area during the period when the Outdoor Eating Area is not in use.
5. **Setback and Coverage Requirements:** Outdoor Eating Areas shall not be permitted within 50 feet of any Residential Zoning District Boundary Line unless separated from the Residential Zone by a public street or a water body or approved by the P&Z Commission by a site plan and Special Permit application. Outdoor Eating Areas and any associated patios are permitted on private property in front, side and rear setback areas and front landscape areas, except for patron bars which must comply with setbacks, and may not block or interfere with sidewalks, walkways or emergency egress as determined by the Fire Marshall. Outdoor Eating Areas that have a tent, canopy or fixed awning shall be counted in building coverage. Required front landscape areas and vegetative buffers that are planted and were approved as part of a Site Plan application shall not have vegetation removed to accommodate this use. If removal of such landscaping is proposed a new Site Plan and Special Permit application will be required.

### **32-21 Home Occupation, Level 2**

A Principal or Accessory Building may be permitted a Home Occupation, Level 2, as defined in §5-2 herein, subject to Special Permit and Site Plan approval in accordance with §43 herein and the following conditions:

- 32-21.1 Resident Occupant** – Only one Home Occupation, Level 2 shall be conducted on any premises. Such occupation shall be conducted by one or more residents of the premises.
- 32-21.2 Location** – A Home Occupation, Level 2 shall be located within the Principal Building on the lot. Such occupation may also be located in an Accessory Building pursuant to §32-18.9. The Home Occupation, Level 2 shall be incidental and clearly a secondary use of the principal residence.
- 32-21.3 Floor area** – Except as provided for in §32-18.9.1, Permitted Uses in Historic

Accessory Structures, the total interior floor area devoted to a Home Occupation, Level 2 shall not exceed 25% of the floor area of the Principal Building, excluding cellars and basements, and including waiting rooms, file rooms and similar spaces devoted to uses which are supplementary to such occupations. In the case of a Two-Family building, the floor area of the Principal Building shall be interpreted as the floor area of the individual dwelling unit.

- 32-21.4 Visitors** – There shall be no more than ten (10) visitor, patron, client or associate visits per day.
- 32-21.5 Students or Pupils** - No more than four (4) students or pupils at any one time shall be permitted.
- 32-21.6 Employees** – More than one non-resident on-site employee or contractor is allowed, subject to approval by the P&Z Commission.
- 32-21.7 Display** – No display shall be visible from the outside.
- 32-21.8 Signs** – Pursuant to §33-5 one free standing sign or wall sign not to exceed two (2) square feet in area nor six (6) feet in height, identifying the name and address of the occupant of a Dwelling and/or a Home Occupation, Level 2 is permitted.
- 32-21.9 Parking** – 2 off-street parking spaces are required in addition to the 2 parking spaces required for a single family residence plus additional parking as determined by the P&Z Commission. No parking spaces shall be located within the minimum required front setback.
- 32-21.10 Prohibition** – The use of any Multiple Family Dwelling Unit for any Home Occupation, Level 2 shall be prohibited.
- 32-21.11 Limitation** – Either one (1) Home Occupation Level 1 or Level 2 is permitted per lot.

### **32-22 Retail Boat Sales Including Accessory Boat Repairs and Storage**

The purpose of this regulation is to permit the sale, servicing and storage of pleasure and recreational boats in this waterfront community. Retail boat sales including accessory boat repairs and storage may be permitted on properties in the GBD zone along the Post Road and Riverside Avenue. The property must be a minimum of one acre and have a minimum of one hundred and fifty feet of frontage along the Post Road or Riverside Avenue. Retail boat sales including accessory boat repairs and storage are subject to Special Permit and Site Plan approval in accord with §43 and §44, herein, and subject to the following conditions:

#### **32-22.1 Considerations**

When considering boat sales including accessory boat repairs and storage, the P&Z Commission shall consider and determine the following:

- (a) The proposal will not adversely affect public safety,
- (b) The proposal will be consistent with the Special Permit standards set forth in §44-6.

### **32-22.2 Conditions of Approval**

Any Special Permit for boat sales including accessory boat repairs and storage approved by the P&Z Commission under this regulation shall be subject to the following:

- (a) The property shall have a minimum of one acre in size and be located in the GBD zone.
- (b) The property shall have a minimum of one hundred and fifty feet of frontage on the Post Road or Riverside Avenue.
- (c) Boats to be sold, stored or repaired are limited to twenty six feet in length with a maximum height of thirty feet. Height includes boat, mast and trailer. Racked boats shall not exceed 16 feet, including the rack.
- (d) Area set aside for outdoor parking of boats for any purposes including boat repairs shall be limited to fifty (50) percent of the portion of the property properly zoned for the use. The Commission reserves the right to limit the area devoted to outdoor parking of boats based on site specific conditions. Outdoor winter storage of boats will be limited to those boats owned by the holder of the Special Permit.
- (e) There shall be no boat parking, storage or repairs within any required Front Landscape Area pursuant to §35-2.2 or Buffer Strip pursuant to §35-2.4.
- (f) For the lot area of the property devoted to retail and service uses, parking is to be provided in accord with §34. For the lot area devoted to boat repair and storage use, parking shall be provided at 1 space for each 1 ½ employees, or 500 square feet of gross interior floor area, whichever is greater.
- (g) Outdoor boat parking, storage, repair areas & boat racks must be identified on the Site Plan.

### **32-23 Special Requirements for Outdoor Special Events**

Outdoor Special Events as defined in §5 shall be permitted in all Zoning Districts subject to the following requirements:

1. **Departmental Approvals:** All Outdoor Special Event applications shall be approved by the Westport-Weston Health District, the Police Department and the Fire Marshall's office as applicable prior to a the issuance of a zoning permit. Events that include amusement devices, such as carrouseles, roller coasters, whirligigs, merry-go-rounds and ferris wheels shall require approval by the Administrative Review Committee (ARC).
2. **Time Limits:**
  - A. **Commercially Zoned Property**

Any approved event may not exceed a duration of more than 10 days. Events that are more than 10 consecutive days in length shall require Administrative Site Plan approval from the Administrative Review Committee (ARC).
  - B. **Residentially Zoned Property**

Any approved event may not exceed a duration of more than 2 days. Events that are more than 2 consecutive days in length shall require Administrative Site Plan approval from the Administrative Review Committee (ARC).

- C. **Special Permit Uses listed in §11-2.2 on Private Property in Residential Zones**  
Any approved event may not exceed a duration of more than 7 days. Events that are more than 7 consecutive days in length shall require Administrative Site Plan approval from the Administrative Review Committee (ARC).
- 3. **Parking Requirements:** Outdoor Special Events shall provide adequate off-street parking.
- 4. **Setback Requirements:** Any tents or temporary structures associated with Outdoor Special Events shall not be located within any front, side or rear yard setbacks. Except for tents up to 5 feet in width that are required by the Westport Weston Health District for the delivery of food to the place where it will be served but shall not be used as an area where food is served.
- 5. **Hours of Operation:**
  - A. **Commercially Zoned Property**  
Hours of operation shall be limited to between 7:00am and 11:00pm Sundays through Thursdays and between 7:00am and 1:00am on Fridays and Saturdays.
  - B. **Residentially Zoned Property**  
Hours of operation shall be limited to between 8:00am and 10:00pm Sundays through Thursdays. However, events on Fridays and Saturdays and may be extended to 1:00am with the approval of ARC.
  - C. **Special Permit Uses listed in §11-2.2 on Private Property in Residential Zones**  
Hours of operation shall be limited to between 8:00am and 10:00pm Sundays through Thursdays. However, events on Fridays and Saturdays and may be extended to 1:00am with the approval of ARC.
- 6. **Lights, Noise & Odors:** Outdoor Special Events shall minimize the impact of lights, noise and odors on surrounding residential properties.
- 7. **Exceptions:** Outdoor Special Events located on Town-owned property authorized by the Board of Selectman shall be exempt from the need for a zoning permit.
- 8. **Westport Athletic Special Events:** Westport Athletic Special Events as defined in §32-19 shall be subject to the requirements of §32-19 only.
- 9. **Repeat or Annual Events:** Repeat or Annual events, in which there are no material changes, that normally require ARC approval may be allowed to obtain a Zoning Permit from the P&Z Staff without a new ARC hearing provided that in the discretion of the P&Z Director that no substantive complaints have been received in prior years about the event.